

State of Arizona
Senate
Forty-fifth Legislature
Second Regular Session
2002

CHAPTER 71

SENATE BILL 1196

AN ACT

AMENDING SECTIONS 20-485, 20-485.11, 20-486, 20-487, 20-488.07, 20-663, 20-832, 20-890, 20-1097.09, 20-1097.13, 20-1231, 20-1232, 20-1233, 20-1311, 20-1508, 20-1612, 20-1631, 20-1655, 20-1675, 20-1691.01, 20-1691.04, 20-1691.07, 20-1691.08, 20-2101, 20-2102, 20-2103, 20-2104, 20-2105, 20-2106, 20-2107, 20-2108, 20-2109, 20-2110, 20-2111, 20-2112, 20-2113, 20-2114, 20-2116, 20-2118, 20-2119, 20-2313, 20-2403, 20-2408, 20-2411, 20-2601, 20-2602, 20-2604, 20-2606, 20-2636, 20-2662, 23-617, 28-450, 32-1391.02, 32-3602, 33-803, 44-1220.01 AND 44-3152, ARIZONA REVISED STATUTES; RELATING TO INSURANCE PRODUCER LICENSING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 20-485, Arizona Revised Statutes, is amended to
3 read:

4 20-485. Definitions; scope

5 A. In this article, unless the context otherwise requires:

6 1. "Administrator" means any person who collects charges or premiums
7 from or paid on behalf of, or who adjusts or settles claims by, residents of
8 this state in connection with life or health insurance coverage or annuities
9 other than any of the following:

10 (a) An employer on behalf of such employer's employees or the
11 employees of one or more subsidiary or affiliated corporations of such
12 employer.

13 (b) A union on behalf of its members.

14 (c) An insurer authorized to transact insurance in this state,
15 including its employees and sales representatives, to the extent that it
16 collects charges or premiums from or paid on behalf of, or adjusts or settles
17 claims by, residents of this state in connection with life or health
18 insurance coverage or annuities lawfully issued and delivered or assumed in
19 this state and pursuant to the laws of this state or another state and for
20 which the insurer or an affiliated insurer is presently directly liable.

21 (d) An insurer authorized to transact insurance in this state,
22 including its employees and sales representatives, to the extent that it
23 collects charges or premiums from or paid on behalf of, or adjusts or settles
24 claims by, residents of this state in connection with life or health
25 insurance coverage or annuities lawfully issued and delivered or assumed in
26 this state and pursuant to the laws of this state or another state and for
27 which an unaffiliated insurer is presently directly liable.

28 (e) A person other than an insurer, to the extent that the person's
29 activities are limited to the collection of charges or premiums from or paid
30 on behalf of, or the adjustment or settlement of claims by, residents of this
31 state in connection with life and health insurance coverage issued and
32 delivered or assumed by an affiliated insurer authorized to transact
33 insurance in this state and for which the affiliated insurer is presently
34 directly liable.

35 (f) A life or disability agent ~~or broker~~ INSURANCE PRODUCER who is
36 licensed in this state and whose activities are limited exclusively to the
37 sale of insurance.

38 (g) A creditor on behalf of such creditor's debtors with respect to
39 insurance covering a debt between the creditor and its debtors.

40 (h) A trust and its trustees, agents and employees acting pursuant to
41 such trust established in conformity with 29 United States Code section 186.

42 (i) A trust exempt from taxation under section 501(a) of the internal
43 revenue code and its trustees and employees acting pursuant to such trust,
44 or a custodian and its agents and employees acting pursuant to a custodian

1 account which meets the requirements of section 401(f) of the internal
2 revenue code.

3 (j) A financial institution which is subject to supervision or
4 examination by federal or state banking authorities.

5 (k) A credit card issuing company which advances for and collects
6 premiums or charges from its credit card holders who have authorized such
7 collection, if such company does not adjust or settle claims.

8 (l) A person who adjusts or settles claims in the normal course of
9 such person's practice or employment as an ~~attorney-at-law~~ ATTORNEY and who
10 does not collect charges or premiums in connection with life or health
11 insurance coverage or annuities.

12 (m) An adjuster licensed in this state while acting in accordance with
13 an adjuster's license.

14 (n) A person who acts only as an administrator of one or more bona
15 fide employee benefit plans established by an employer or an employee
16 organization, or both, for which the insurance laws of this state are
17 preempted pursuant to the employee retirement income security act of 1974
18 (P.L. 93-406; 88 Stat. 829; 29 United States Code sections 1001 through
19 1461).

20 2. "Affiliate" or "affiliated" means a person who directly, or
21 indirectly through one or more intermediaries, controls, is controlled by or
22 is under common control with a specified person.

23 3. "Control" means the direct or ultimate possession of the power to
24 direct or cause the direction of the management and policies of a person
25 whether through voting rights, contracts, other than commercial contracts for
26 goods or nonmanagement services, or otherwise, unless the power is the result
27 of an official position or corporate office. Control exists if any person,
28 directly or indirectly, owns, controls, holds with the power to vote or holds
29 proxies representing ten per cent or more of the voting rights of any other
30 person, including the right to elect or appoint the officers or directors of
31 a nonprofit corporation.

32 4. "Insurer" means any person who provides life or health insurance
33 coverage in this state or who transacts annuity business in this state.
34 Insurer includes an authorized insurer, hospital, medical, dental or
35 optometric service corporation or health care services organization or any
36 other person providing a plan of insurance subject to the laws of insurance
37 of this state. Insurer does not include a self-insured or a self-funded
38 employee benefit plan if regulation of that plan is preempted pursuant to
39 section 1144(a) of the employee retirement income security act of 1974 (29
40 United States Code section 1144(a)) but does include an insurer who provides
41 coverage as part of an employee benefit plan.

42 5. "Principal" means a person who has the authority to enter into
43 written agreements on behalf of the administrator pursuant to section
44 20-485.01.

1 B. To the extent that an insurer is subject to subsection A, paragraph
2 1, subdivision (d) of this section, it shall comply with this article except
3 sections 20-485.10 and 20-485.12.

4 C. This article does not apply to a person acting exclusively as a
5 third party intermediary ENTITY as prescribed in section 20-120.

6 Sec. 2. Section 20-485.11, Arizona Revised Statutes, is amended to
7 read:

8 20-485.11. Notice to insureds; statement of charge or premium
9 for coverage; conflict of interest prohibited

10 A. If the services of an administrator are utilized, such
11 administrator shall provide a written notice approved by the insurer to
12 insured individuals advising them of the identity of and relationship among
13 the administrator, the policyholder and the insurer.

14 B. If an administrator collects monies, the administrator shall
15 identify and state separately in writing to the person paying to the
16 administrator any charge or premium for insurance coverage the amount of any
17 such charge or premium specified by the insurer for such insurance coverage.

18 C. The administrator or any employee of the administrator shall not
19 directly or through control of any other person have an ownership interest
20 in any insurer except as a shareholder of less than one per cent of the
21 shares of any publicly owned insurer. The administrator or a principal of
22 the administrator may not receive from an insurer, for the placement of
23 insurance administered by the administrator, a commission whether in monetary
24 or nonmonetary form directly dependent upon the amount of such insurance.

25 D. Subject to subsection C of this section, before entering into a
26 written agreement pursuant to section 20-485.01 with an unaffiliated insurer,
27 an administrator shall provide written notice to the unaffiliated insurer of
28 the identity of each insurer with which the administrator is affiliated and
29 the nature of the affiliation.

30 E. If an administrator or an employee of the administrator acts
31 directly or indirectly as an insurance agent or broker PRODUCER with respect
32 to a policy it administers in this state, the administrator shall provide the
33 policyholder and the person insured under that policy with written notice of
34 that relationship.

35 F. If an administrator or an employee of the administrator acts
36 directly or indirectly as an insurance agent PRODUCER with respect to an
37 insurance policy available in this state that has substantially the same type
38 of coverage as a policy it administers in this state, the administrator shall
39 provide the insurer for which it acts with written notice of the identity of
40 the other insurer and its relationship to it.

41 Sec. 3. Section 20-486, Arizona Revised Statutes, is amended to read:

42 20-486. Definitions; director's list

43 A. In this article, unless the context otherwise requires:

44 1. "Actuary" means a person who is a member in good standing of the
45 American academy of actuaries.

1 2. "Controlling person" means a person, firm, association or
2 corporation that directly or indirectly has the power to direct or cause to
3 be directed the management, control or activities of the reinsurance
4 intermediary.

5 3. "Insurer" means a person, firm, association or corporation licensed
6 to transact insurance business in this state.

7 4. "Licensed producer" means an agent, ~~broker~~ INSURANCE PRODUCER or
8 reinsurance intermediary who is licensed pursuant to this title.

9 5. "Reinsurance intermediary" means a reinsurance intermediary broker
10 or a reinsurance intermediary manager.

11 6. "Reinsurance intermediary broker" means a person, other than an
12 officer or employee of the ceding insurer, or a firm, association or
13 corporation that solicits, negotiates or places reinsurance cessions or
14 retrocessions on behalf of a ceding insurer without the authority or power
15 to bind reinsurance on behalf of the insurer.

16 7. "Reinsurance intermediary manager" means a person, firm,
17 association or corporation that has authority to bind or manage all or part
18 of the assumed reinsurance business of a reinsurer, including the management
19 of a separate division, department or underwriting office, and that acts as
20 an agent for the reinsurer whether the reinsurer is known as a reinsurance
21 intermediary manager, a manager or another similar term. For the purposes
22 of this article, the following persons are not reinsurance intermediary
23 managers:

24 (a) An employee of the reinsurer.

25 (b) The United States manager of a United States branch of an alien
26 reinsurer.

27 (c) An underwriting manager who, pursuant to contract, manages all of
28 the reinsurance operations of the reinsurer, who is under common control with
29 the reinsurer, subject to the holding company regulatory act, and whose
30 compensation is not based on the volume of premiums written.

31 (d) The manager of a group, association, pool or organization of
32 insurers that engages in joint underwriting or joint reinsurance and that is
33 subject to examination by the insurance director of the state in which the
34 manager's principal business office is located.

35 8. "Reinsurer" means a person, firm, association or corporation
36 licensed to transact reinsurance business in this state.

37 9. "Violation" means the failure of the reinsurance intermediary,
38 insurer or reinsurer for whom the reinsurance intermediary was acting to
39 substantially comply with the provisions of this article.

40 B. The director may establish and maintain a list of financial
41 institutions as a qualified financial institution if the institution is:

42 1. Organized, or in the case of a United States office of a foreign
43 banking organization, licensed, under the laws of the United States or any
44 state of the United States.

1 2. Regulated, supervised and examined by federal or state authorities
2 having regulatory authority over banks and trust companies.

3 3. Determined by the director to meet the standards of financial
4 condition and standing that are considered necessary and appropriate to
5 regulate the quality of financial institutions whose letters of credit will
6 be acceptable to the director.

7 Sec. 4. Section 20-487, Arizona Revised Statutes, is amended to read:
8 20-487. Definitions

9 In this article, unless the context otherwise requires:

10 1. "Accredited state" means a state in which the insurance department
11 or other regulatory agency has qualified as meeting the minimum financial
12 regulatory standards that are adopted and established by the national
13 association of insurance commissioners.

14 2. "Control" or "controlled" has the same meaning as provided in
15 section 20-481.

16 3. "Controlled insurer" means a licensed insurer who is controlled by
17 a producer.

18 4. "Controlling producer" means a producer who controls, directly or
19 indirectly an insurer.

20 5. "Licensed insurer" or "insurer" means a person, firm, association
21 or corporation that is duly licensed to transact property or casualty
22 insurance business in this state. For the purposes of this article, licensed
23 insurer or insurer does not include a:

24 (a) Risk retention group as defined in the superfund amendments and
25 reauthorization act of 1986 (42 United States Code section 9601), the risk
26 retention act (15 United States Code sections 3901, 3902, 3903, 3905 and
27 3906) and chapter 14, article 1 of this title.

28 (b) Residual market pool and joint underwriting authority or
29 association.

30 (c) Captive insurer. For the purposes of this subdivision, "captive
31 insurer" means an insurance company that is owned by another organization and
32 whose exclusive purpose is to insure risks to member organizations or group
33 members and their affiliates.

34 6. "Producer" means an insurance ~~broker or brokers~~ PRODUCER or any
35 other person, firm, association or corporation when, for any compensation,
36 commission or other thing of value, the person, firm, association or
37 corporation acts or aids in any manner in soliciting, negotiating or
38 procuring the making of an insurance contract on behalf of an insured other
39 than the person, firm, association or corporation.

40 Sec. 5. Section 20-488.07, Arizona Revised Statutes, is amended to
41 read:

42 20-488.07. Confidentiality; information sharing

43 A. With respect to a domestic insurer or foreign insurer, the director
44 shall keep confidential all information that is contained in RBC reports and
45 that is not required to be set forth in a public annual statement schedule

1 and all RBC plans that are filed with the director, including the results or
2 report of an examination or analysis of an insurer that is performed pursuant
3 to this article and any corrective order that is issued by the
4 director. This information shall not be made public and is not subject to
5 subpoena, except that the director may subpoena the information for the
6 purpose of enforcing the insurance laws of this state.

7 B. An assertion, representation or statement regarding the RBC levels
8 of an insurer or any component derived by any insurer, ~~agent, broker~~
9 INSURANCE PRODUCER or other person engaged in the transaction of insurance
10 business shall not be published, disseminated, circulated or placed before
11 the public in any printed medium and shall not be advertised, announced or
12 stated through radio, television or any other electronic medium.

13 C. Notwithstanding subsection B, an insurer may publish an
14 announcement in a written publication for the purpose of rebutting a
15 materially false statement that is made with respect to the comparison
16 regarding the insurer's total adjusted capital to its RBC levels or with
17 respect to an inappropriate comparison of any other amount to the insurer's
18 RBC levels, that is published in a written publication and that the insurer
19 is able to demonstrate to the director with substantial proof is false or
20 inappropriate.

21 D. The RBC instructions, RBC reports, adjusted RBC reports, RBC plans
22 and revised RBC plans are intended solely for use by the director in
23 monitoring the solvency of insurers and the need for possible corrective
24 action with respect to insurers. The director shall not use the RBC
25 instructions, RBC reports, adjusted RBC reports, RBC plans and revised RBC
26 plans for rate making, shall not consider or introduce them as evidence in
27 any rate making proceeding and shall not use them to calculate or derive any
28 elements of an appropriate premium level or rate of return for any line of
29 insurance that an insurer or any affiliate is authorized to write.

30 E. The director may:

31 1. Share nonpublic documents, materials or other information with
32 other state, federal and international regulatory agencies, with the national
33 association of insurance commissioners and its affiliates and subsidiaries
34 and with state, federal and international law enforcement authorities if the
35 recipient agrees and warrants that it has the authority to maintain the
36 confidentiality and privileged status of the documents, materials or other
37 information.

38 2. Receive documents, materials and other information from the
39 national association of insurance commissioners and its affiliates and
40 subsidiaries and from regulatory and law enforcement officials of other
41 jurisdictions and shall maintain as confidential or privileged any document,
42 material or other information received with notice or the understanding that
43 it is confidential or privileged under the laws of the jurisdiction that is
44 the source of the document, material or other information.

1 3. Enter into agreements that govern the sharing and use of documents,
2 materials and other information and that are consistent with this section.

3 F. A disclosure to or by the director pursuant to this section or as
4 a result of sharing information pursuant to subsection E is not a waiver of
5 any applicable privilege or claim of confidentiality in the documents,
6 materials or other information disclosed or shared.

7 Sec. 6. Section 20-663, Arizona Revised Statutes, is amended to read:

8 20-663. Guaranty fund board; composition; compensation

9 A. There is established within the department of insurance a guaranty
10 fund board consisting of eleven members appointed by the
11 governor. Membership on the board shall be for a term of three years. Of
12 the members first appointed, four shall serve for terms of one year, four
13 shall serve for terms of two years and three shall serve for terms of three
14 years.

15 B. The members of the board shall be appointed from a list of persons
16 submitted to the governor by the director of insurance. The board shall be
17 selected as follows:

18 1. Two members from insurers representing the American insurance
19 association.

20 2. Two members from insurers representing the American mutual
21 insurance alliance.

22 3. Two members from insurers representing the national association of
23 independent insurers.

24 4. Three members from member insurers not affiliated with the groups
25 listed in paragraph 1, 2 or 3.

26 5. One member shall be a casualty insurance agent PRODUCER residing
27 in this state.

28 6. One member representing the general public.

29 C. The board shall conduct periodic meetings in Phoenix. Meetings
30 shall be held upon call of the director or upon written request of any two
31 members of the board.

32 D. Subject to the powers of the director the board shall administer,
33 operate and manage the fund pursuant to this article. The board shall advise
34 and counsel with the director upon matters relating to the solvency of
35 insurers.

36 E. Members of the board shall receive no compensation and shall not
37 be entitled to travel expenses as authorized by title 38, chapter 4, article
38 2, but shall be entitled to be reimbursed for expenses incurred by them as
39 members of the board from the assets of the fund.

40 Sec. 7. Section 20-832, Arizona Revised Statutes, is amended to read:

41 20-832. Limitation on salaries

42 A. A corporation shall not:

43 1. Pay to any officer, agent or employee of the corporation any
44 salary, compensation or emolument amounting in any year to more than five

1 thousand dollars, unless the board of directors of the corporation, first
2 authorizes the salary, compensation or emolument.

3 2. Make any agreement with any officer, agent or employee whereby the
4 corporation agrees that for any services rendered or to be rendered the
5 officer, agent or employee WILL receive a salary, compensation or emolument
6 for a period of more than three years from the date of the agreement.

7 3. Pay any bonus, commission or dividend to any director, ~~officer or~~
8 employee of the corporation.

9 ~~B. Notwithstanding subsection A, paragraph 3 of this section, if a~~
10 ~~corporation has an employee who is licensed as an agent, the corporation may~~
11 ~~compensate the employee on a commission basis for actions as an agent, if the~~
12 ~~compensation, including the commission, to be paid to the agent meets the~~
13 ~~requirements of subsection A, paragraphs 1 and 2 of this section.~~

14 Sec. 8. Section 20-890, Arizona Revised Statutes, is amended to read:

15 20-890. Licensing of insurance producers

16 A. An agent INSURANCE PRODUCER of a society or its subsidiary or
17 affiliated organizations shall be licensed pursuant to chapter 2, article 3
18 of this title. The director may waive the examination for licensure if the
19 applicant was licensed after January 1, 1955 and has been an active
20 soliciting representative of a society in this state for not less than six
21 months immediately preceding the application.

22 B. A regular salaried officer, employee or member of a licensed
23 society who devotes substantially all of his THAT INDIVIDUAL'S services to
24 activities other than the solicitation of fraternal insurance contracts and
25 who receives for the solicitation of those contracts no commission or other
26 compensation directly dependent on the amount of business solicited is not
27 subject to examination and licensure pursuant to this section.

28 C. An agent INSURANCE PRODUCER, representative or member of the
29 society who devotes or intends to devote less than fifty per cent of his THAT
30 INDIVIDUAL'S time to the solicitation and procurement of insurance contracts
31 is exempt from subsection A. This exemption does not apply to an agent
32 INSURANCE PRODUCER of a subsidiary corporation or affiliated
33 organization. From time to time each society shall submit to the director
34 the names and addresses of all persons who are actively engaged in its behalf
35 as insurance agents PRODUCERS.

36 D. A person who in the preceding calendar year has solicited and
37 procured life insurance contracts on behalf of a fraternal benefit society
38 in an amount of insurance of more than one hundred thousand dollars, or in
39 the case of any other kind or kinds of insurance that the society may write,
40 on the persons of more than one hundred individuals, is presumed to be
41 devoting or intending to devote more than fifty per cent of his THAT
42 INDIVIDUAL'S time to the solicitation or procurement of insurance contracts
43 for societies.

1 E. In this state a person shall not solicit, forward applications or
2 assist in placing insurance of residents of this state in any fraternal
3 benefit society that is not authorized to transact business in this state.

4 Sec. 9. Section 20-1097.09, Arizona Revised Statutes, is amended to
5 read:

6 20-1097.09. Liability of corporation; civil penalty

7 A. Notwithstanding section 20-1097.13, subsection C, if after a
8 hearing the director finds that an agent INSURANCE PRODUCER or salesperson
9 of a corporation authorized to sell prepaid legal insurance contracts has
10 made wilful misrepresentations, the director may impose a civil penalty on
11 the prepaid legal insurance corporation of not more than one hundred thousand
12 dollars for each wilful misrepresentation.

13 B. Notwithstanding section 20-1097.13, subsection C, if after a
14 hearing the director finds that an agent INSURANCE PRODUCER or salesperson
15 of a corporation authorized to sell prepaid legal insurance contracts has
16 made negligent misrepresentations, the director may impose a civil penalty
17 on the prepaid legal insurance corporation of not more than ten thousand
18 dollars for each misrepresentation.

19 C. No order of the director pursuant to this section or order of the
20 court to enforce it, or the holding of a hearing, may in any manner relieve
21 or absolve any person affected by the order or hearing from any other
22 liability, penalty or forfeiture under law.

23 D. Any monies collected from any civil penalty imposed herein PURSUANT
24 TO THIS SECTION shall be deposited, PURSUANT TO SECTIONS 35-146 AND 35-147,
25 in the STATE general fund.

26 Sec. 10. Section 20-1097.13, Arizona Revised Statutes, is amended to
27 read:

28 20-1097.13. Suspension or revocation of authorization or
29 registration; appeal; civil penalty; rules

30 A. The director may suspend or revoke the authorization of a
31 corporation or agent INSURANCE PRODUCER to engage in the sale of prepaid
32 legal insurance contracts for any of the following causes:

- 33 1. Material misstatement, misrepresentation or fraud in registration.
- 34 2. Any wilful attempt to circumvent the requirements of this article.
- 35 3. Wilful misrepresentation or wilful deception with regard to any
36 contract issued or sold under this article.
- 37 4. Any material misrepresentation to a contract holder or other
38 interested party regarding the adjustment of the claim or the payment of a
39 claim under the provisions of a contract issued or sold under the terms of
40 this article, if the misrepresentation is made with the intent and for the
41 purpose of affecting settlement of such claim on less favorable terms than
42 those provided in and contemplated by the contract.
- 43 5. Fraudulent or dishonest practices in the conduct of its business.

1 6. Misappropriation, conversion or unlawful withholding of monies
2 belonging to a legal services corporation or to others received in the
3 conduct of business under this article.

4 7. Failure to comply with or wilful violation of any provision of this
5 article, or order or rule of the department adopted pursuant to this article.

6 B. Any corporation or agent INSURANCE PRODUCER of a corporation whose
7 certificate or license has been suspended or revoked by the director for
8 cause under this section may request a hearing pursuant to title 41, chapter
9 6, article 10.

10 C. The director may impose a civil penalty in an amount not to exceed
11 two thousand five hundred dollars for an agent INSURANCE PRODUCER or ten
12 thousand dollars for a corporation in lieu of suspension or revocation of
13 authorization or registration if under this article the director deems the
14 civil penalty in lieu of suspension or revocation to be a satisfactory means
15 of fulfilling the intent of this article. A civil penalty imposed under this
16 subsection shall be deposited, PURSUANT TO SECTIONS 35-146 AND 35-147, in the
17 state general fund.

18 D. The director shall adopt rules not inconsistent with the provisions
19 of this article, as the director deems advisable for effectuating its orderly
20 administration.

21 Sec. 11. Section 20-1231, Arizona Revised Statutes, is amended to
22 read:

23 20-1231. Standard nonforfeiture law for life insurance

24 A. This section may be cited as the standard nonforfeiture law for
25 life insurance.

26 B. Nonforfeiture provisions--Life. In the case of policies issued on
27 or after the operative date of this section as defined in subsection J of
28 this section, no policy of life insurance, except as set forth in subsection
29 I of this section, shall be delivered or issued for delivery in this state
30 unless it contains in substance the following provisions, or corresponding
31 provisions which in the opinion of the director are at least as favorable to
32 the defaulting or surrendering policyholder as are the minimum requirements
33 specified in this section and are essentially in compliance with subsection
34 H of this section:

35 1. That in the event of default in any premium payment, the insurer
36 will grant, upon proper request not later than sixty days after the due date
37 of the premium in default, a paid-up nonforfeiture benefit on a plan
38 stipulated in the policy, effective as of such due date, of such amount as
39 is specified by this section. Instead of the stipulated paid-up
40 nonforfeiture benefit, the insurer may substitute, upon proper request not
41 later than sixty days after the due date of the premium in default, an
42 actuarially equivalent alternative paid-up nonforfeiture benefit which
43 provides a greater amount or longer period of death benefits or, if
44 applicable, a greater amount or earlier payment of endowment benefits.

1 2. That upon surrender of the policy within sixty days after the due
2 date of any premium payment in default after premiums have been paid for at
3 least three full years in the case of ordinary insurance, and five full years
4 in the case of industrial insurance, the insurer will pay, in lieu of any
5 paid-up nonforfeiture benefit, a cash surrender value of such amount as is
6 specified by this section.

7 3. That a specified paid-up nonforfeiture benefit shall become
8 effective as specified in the policy unless the person entitled to make such
9 election elects another available option not later than sixty days after the
10 due date of the premium in default.

11 4. That if the policy has become paid up by completion of all premiums
12 payments, or if it is continued under any paid-up nonforfeiture benefit which
13 became effective on or after the third policy anniversary in the case of
14 ordinary insurance, or the fifth policy anniversary in the case of industrial
15 insurance, the insurer will pay, upon surrender of the policy within thirty
16 days after any policy anniversary, a cash surrender value of such amount as
17 is specified by this section.

18 5. In the case of policies which cause on a basis guaranteed in the
19 policy unscheduled changes in benefits or premiums, or which provide an
20 option for changes in benefits or premiums other than a change to a new
21 policy, a statement of the mortality table, interest rate and method used in
22 calculating cash surrender values and the paid-up nonforfeiture benefits
23 available under the policy. In the case of all other policies, a statement
24 of the mortality table and interest rate used in calculating the cash
25 surrender values and the paid-up nonforfeiture benefits available under the
26 policy, together with a table showing the cash surrender value, if any, and
27 paid-up nonforfeiture benefit, if any, available under the policy on each
28 policy anniversary, either during the first twenty policy years or during the
29 term of the policy, whichever is shorter, such values and benefits to be
30 calculated upon the assumption that there are no dividends or paid-up
31 additions credited to the policy and that there is no indebtedness to the
32 insurer on the policy.

33 6. A statement that the cash surrender values and the paid-up
34 nonforfeiture benefits available under the policy are not less than the
35 minimum values and benefits required by or pursuant to the insurance law of
36 this state, an explanation of the manner in which the cash surrender values
37 and the paid-up nonforfeiture benefits are altered by the existence of any
38 paid-up additions credited to the policy or any indebtedness to the insurer
39 on the policy, if a detailed statement of the method of computation of the
40 values and benefits shown in the policy is not stated therein, a statement
41 that such method of computation has been filed with the insurance supervisory
42 official of the state in which the policy is delivered, and a statement of
43 the method to be used in calculating the cash surrender value and paid-up
44 nonforfeiture benefit available under the policy on any policy anniversary

1 beyond the last anniversary for which such values and benefits are
2 consecutively shown in the policy.

3 C. Any of the provisions or portions of the provisions set forth in
4 subsection B, paragraphs 1 through 6 of this section which are not applicable
5 by reason of the plan of insurance may, to the extent inapplicable, be
6 omitted from the policy. The insurer shall reserve the right to defer the
7 payment of any cash surrender value for a period of six months after demand
8 therefor with surrender of the policy.

9 D. Cash surrender value--Life.

10 1. Any cash surrender value available under the policy in the event
11 of default in the premium payment due on any policy anniversary, whether or
12 not required by subsection B of this section, shall be an amount not less
13 than the excess, if any, of the present value on such anniversary of the
14 future guaranteed benefits which would have been provided for by the policy,
15 including any existing paid-up additions if there had been no default, over
16 the sum of the then present value of the adjusted premiums as defined in
17 subsection F of this section and in section 20-1231.01, corresponding to
18 premiums which would have fallen due on and after such anniversary, and the
19 amount of any indebtedness to the insurer on account of or secured by the
20 policy.

21 2. For any policy issued on or after the operative date as provided
22 in section 20-1231.01 which provides supplemental life insurance or annuity
23 benefits at the option of the insured and for an identifiable additional
24 premium by rider or supplemental policy provision, the cash surrender value
25 referred to in paragraph 1 of this subsection is in an amount not less than
26 the sum of the cash surrender value as defined in such paragraph for an
27 otherwise similar policy issued at the same age without such rider or
28 supplemental policy provision and the cash surrender value as defined in such
29 paragraph for a policy which provides only the benefits otherwise provided
30 by such rider or supplemental policy provision.

31 3. For any family policy issued on or after the operative date as
32 provided in section 20-1231.01 which defines a primary insured and provides
33 term insurance on the life of the spouse of the primary insured expiring
34 before the spouse's age seventy-one, the cash surrender value referred to in
35 paragraph 1 of this subsection is in an amount not less than the sum of the
36 cash surrender value as defined in that paragraph for an otherwise similar
37 policy issued at the same age without term insurance on the life of the
38 spouse and the cash surrender value as defined in that paragraph for a policy
39 which provides only the benefits otherwise provided by term insurance on the
40 life of the spouse.

41 4. Any cash surrender value available within thirty days after any
42 policy anniversary under any policy paid up by completion of all premium
43 payments, or any policy continued under any paid-up nonforfeiture benefits,
44 whether or not required by subsection B of this section, shall be an amount
45 not less than the present value, on such anniversary, of the future

1 guaranteed benefits provided for by the policy, including any existing
2 paid-up additions, decreased by any indebtedness to the insurer on account
3 of or secured by the policy.

4 E. Paid-up nonforfeiture benefits--Life. Any paid-up nonforfeiture
5 benefit available under the policy in the event of default in the premium
6 payment due on any policy anniversary shall be such that its present value
7 as of such anniversary shall be at least equal to the cash surrender value
8 then provided for by the policy, or, if none is provided for, that cash
9 surrender value which would have been required by this section in the absence
10 of the conditions that premiums shall have been paid for at least a specified
11 period.

12 F. The adjusted premiums--Life.

13 1. Paragraphs 1 through 4 and paragraph 5, subdivision (a) OF THIS
14 SUBSECTION do not apply to policies issued on or after the operative date as
15 provided in section 20-1231.01. Except as provided in paragraph 3 of this
16 subsection, the adjusted premiums for any policy shall be calculated on an
17 annual basis and shall be such uniform percentage of the respective premiums
18 specified in the policy for each policy year, excluding extra premiums on a
19 substandard policy, that the present value, at the date of issue of the
20 policy, of all such adjusted premiums shall be equal to the sum of:

21 (a) The then present value of the future guaranteed benefits provided
22 for by the policy.

23 (b) Two per cent of the amount of the insurance if the insurance is
24 uniform in amount, or of the equivalent uniform amount, as defined by this
25 section, if the amount of insurance varies with the duration of the policy.

26 (c) Forty per cent of the adjusted premium for the first policy year.

27 (d) Twenty-five per cent of either the adjusted premium for the first
28 policy year or the adjusted premium for a whole life policy of the same
29 uniform or equivalent uniform amount with uniform premiums for the whole of
30 life issued at the same age for the same amount of insurance, whichever is
31 less.

32 2. In applying the percentages specified in subdivisions (c) and (d)
33 of paragraph 1 of this subsection, no adjusted premiums shall be deemed to
34 exceed four per cent of the amount of insurance or uniform amount equivalent
35 thereto. When the plan or term of a policy has been changed, either by
36 request of the insured or automatically in accordance with the provisions of
37 the policy, the date of inception of the changed policy for the purposes of
38 determining a nonforfeiture benefit or cash surrender value shall be the date
39 as of which the age of the insured is determined for the purposes of the
40 changed policy.

41 3. The adjusted premiums for any policy providing term insurance
42 benefits by rider or supplemental policy provisions shall be equal to the sum
43 of:

44 (a) The adjusted premiums for an otherwise similar policy issued at
45 the same age without such term insurance benefits.

(b) The adjusted premiums for such term insurance benefits during the period for which premiums for such term insurance benefits are payable. Such subdivisions (a) and (b) shall be calculated separately and as specified in paragraphs 1 and 2 of this subsection except that, for the purposes of subdivisions (b), (c) and (d) of paragraph 1 of this subsection, the amount of insurance or equivalent uniform amount of insurance used in the calculation of the adjusted premiums referred to in THIS subdivision ~~(b)~~ of this paragraph shall be equal to the excess of the corresponding amount determined for the entire policy over the amount used in the calculation of the adjusted premiums in subdivision (a) of this paragraph.

4. In the case of a policy providing an amount of insurance varying with the duration of the policy, the equivalent uniform amount thereof for the purpose of paragraphs 1, 2 and 3 of this subsection shall be deemed to be the uniform amount of insurance provided by an otherwise similar policy, containing the same endowment benefit or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the date of issue as the benefits under the policy, but in the case of a policy for a varying amount of insurance issued on the life of a child under age ten, the equivalent uniform amount may be computed as though the amount of insurance provided by the policy prior to the attainment of age ten were the amount provided by the policy at age ten.

5. Tables for calculating adjusted premiums shall be as follows:

(a) Except as otherwise provided in subdivisions (b) and (d) of this paragraph, all adjusted premiums and present values referred to in this section shall for all policies of ordinary insurance be calculated on the basis of the commissioners 1941 standard ordinary mortality table provided that, for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not in excess of three years younger than the actual age of the insured. Such calculations for all policies of industrial insurance shall be made on the basis of the 1941 standard industrial mortality table. All calculations shall be made on the basis of the rate of interest, not exceeding three and one-half per cent per annum, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits, but in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than one hundred thirty per cent of the rates of mortality according to such applicable table. For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer and approved by the director.

(b) This subdivision does not apply to ordinary policies issued on or after the operative date as provided in section 20-1231.01. In the case of ordinary policies issued on or after the operative date defined in

subdivision (c) of this paragraph, all adjusted premiums and present values referred to in this section shall be calculated on the basis of the commissioners 1958 standard ordinary mortality table and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits, provided that such rate of interest shall not exceed three and one-half per cent per annum except that a rate of interest not exceeding four per cent per annum may be used for policies issued on or after July 1, 1974 and prior to January 1, 1979, and a rate of interest not exceeding five and one-half per cent per annum may be used for policies issued on or after January 1, 1979, except that for any single premium whole life or endowment insurance policy a rate of interest not exceeding six and one-half per cent per annum may be used, and provided that:

(i) For any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not in excess of six years younger than the actual age of the insured.

(ii) In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not in excess of those shown in the commissioners 1958 extended term insurance table.

(iii) For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer and approved by the director.

(c) Any insurer may file with the director a written notice of its election to comply with the provisions of subdivision (b) of this paragraph, either as to designated ordinary policies or as to all ordinary policies issued by it, after a specified date before January 1, 1966. After the filing of such notice, then upon such specified date, which shall be the operative date of such subdivision (b) as to such policies for such insurer, such subdivision (b) shall become operative with respect to such policies thereafter issued by such insurer. If an insurer makes no such election, or so elects to have such subdivision (b) apply as to certain of its ordinary policies only, the operative date thereof as to all of the ordinary policies issued by such insurer, other than those policies as to which the insurer has elected an earlier operative date, shall be January 1, 1966.

(d) This subdivision does not apply to industrial policies issued on or after the operative date provided in section 20-1231.01. In the case of industrial policies issued on or after the operative date of this subdivision as defined herein, all adjusted premiums and present values referred to in this subdivision shall be calculated on the basis of the commissioners 1961 standard industrial mortality table and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits provided that such rate of interest shall not exceed three and one-half per cent per annum except that a rate of interest not exceeding four per cent per annum may be used for policies issued on or after July 1, 1974

1 and prior to January 1, 1979, and a rate of interest not exceeding five and
2 one-half per cent per annum may be used for policies issued on or after
3 January 1, 1979, except that for any single premium whole life or endowment
4 insurance policy a rate of interest not exceeding six and one-half per cent
5 per annum may be used. But, in calculating the present value of any paid-up
6 term insurance with accompanying pure endowment, if any, offered as a
7 nonforfeiture benefit, the rates of mortality assumed may be not more than
8 those shown in the commissioners 1961 industrial extended term insurance
9 table and, for insurance issued on a substandard basis, the calculations of
10 any such adjusted premiums and present values may be based on such other
11 table of mortality as may be specified by the insurer and approved by the
12 director. After the effective date of this subdivision, an insurer may file
13 with the director a written notice of its election to comply with the
14 provisions of this subdivision, either as to designated industrial policies
15 or as to all industrial policies issued by it, after a specified date before
16 January 1, 1968. After the filing of such notice, then upon such specified
17 date, which shall be the operative date of this subdivision for such insurer,
18 this subdivision shall become operative with respect to the industrial
19 policies thereafter issued by such insurer. If an insurer makes no such
20 election, the operative date of this subdivision for such insurer shall be
21 January 1, 1968.

22 (e) For any plan of life insurance which provides for future premium
23 determination, the amounts of which are to be determined by the insurer based
24 on then estimates of future experience, or for any plan of life insurance
25 which is of such a nature that minimum values cannot be determined by the
26 methods described in subsection B, C, D or E of this section, paragraph 1 of
27 this subsection, subdivision (b), (c) or (d) of this paragraph or section
28 20-1231.01, then:

29 (i) The director must be satisfied that the benefits provided under
30 the plan are substantially as favorable to policyholders and insureds as the
31 minimum benefits otherwise required by subsection B, C, D or E of this
32 section, paragraph 1 of this subsection, subdivision (b), (c) or (d) of this
33 paragraph or section 20-1231.01.

34 (ii) The director must be satisfied that the benefits and the pattern
35 of premiums of the plan are not such as to mislead prospective policyholders
36 or insureds.

37 (iii) The cash surrender values and paid-up nonforfeiture benefits
38 provided by the plan must not be less than the minimum values and benefits
39 required for the plan computed by a method consistent with the principles of
40 this standard nonforfeiture law for life insurance, as determined by rules
41 promulgated ADOPTED by the director.

42 G. Calculation of values--Life.

43 1. Any cash surrender value and any paid-up nonforfeiture benefit
44 available under the policy in the event of default in a premium payment due
45 at any time other than on the policy anniversary shall be calculated with

1 allowance for the lapse of time and the payment of fractional premiums beyond
2 the last preceding policy anniversary. All values referred to in subsections
3 D, E and F of this section and section 20-1231.01 may be calculated upon the
4 assumption that any death benefit is payable at the end of the policy year
5 of death. The net value of any paid-up additions, other than paid-up term
6 additions, shall be not less than the amounts used to provide such additions.

7 2. Notwithstanding such provisions of subsection D of this section,
8 additional benefits payable and premiums for all such additional benefits
9 shall be disregarded in ascertaining cash surrender values and nonforfeiture
10 benefits required by this section, and no such additional benefits shall be
11 required to be included in any paid-up nonforfeiture benefits:

12 (a) In the event of death or dismemberment by accident or accidental
13 means.

14 (b) In the event of total and permanent disability.

15 (c) As reversionary annuity or deferred reversionary annuity benefits.

16 (d) As term insurance benefits provided by a rider or supplemental
17 policy provision to which, if issued as a separate policy, this section would
18 not apply.

19 (e) As term insurance on the life of a child or on the lives of
20 children provided in a policy on the life of a parent of the child, if such
21 term insurance expires before the child's age is twenty-six, is uniform in
22 amount after the child's age is one, and has not become paid-up by reason of
23 the death of a parent of the child.

24 (f) As other policy benefits additional to life insurance and
25 endowment benefits.

26 H. This subsection, in addition to all other applicable subsections
27 of this section, applies to all policies issued on or after January 1, 1986:

28 1. Any cash surrender value available under the policy in the event
29 of default in a premium payment due on any policy anniversary shall be in an
30 amount which does not differ by more than two-tenths of one per cent of
31 either the amount of insurance, if the insurance is uniform in amount, or the
32 average amount of insurance at the beginning of each of the first ten policy
33 years, from the sum of:

34 (a) The greater of zero and the basic cash value hereinafter
35 specified.

36 (b) The present value of any existing paid-up additions less the
37 amount of any indebtedness to the insurer under the policy.

38 2. The basic cash value shall be equal to the present value, on such
39 anniversary, of the future guaranteed benefits which would have been provided
40 for by the policy, excluding any existing paid-up additions and before
41 deduction of any indebtedness to the insurer, if there had been no default,
42 less the then present value of the nonforfeiture factors, corresponding to
43 premiums which would have fallen due on and after such anniversary, except
44 that the effects on the basic cash value of supplemental life insurance or
45 annuity benefits or of family coverage, as described in subsection D or F of

1 this section, whichever is applicable, shall be the same as are the effects
2 specified in subsection D or F of this section, whichever is applicable, on
3 the cash surrender values defined in that subsection.

4 3. The nonforfeiture factor for each policy year shall be an amount
5 equal to a percentage of the adjusted premium for the policy year, as defined
6 in subsection F of this section or section 20-1231.01, whichever is
7 applicable. Except as is required by the next succeeding sentence of this
8 paragraph, such percentage:

9 (a) Must be the same percentage for each policy year between the
10 second policy anniversary and the latter of:

11 (i) The fifth policy anniversary.

12 (ii) The first policy anniversary at which there is available under
13 the policy a cash surrender value in an amount, before including any paid-up
14 additions and before deducting any indebtedness, of at least two-tenths of
15 one per cent of either the amount of insurance, if the insurance is uniform
16 in amount, or the average amount of insurance at the beginning of each of the
17 first ten policy years.

18 (b) Must be such that no percentage after the later of the two policy
19 anniversaries specified in subdivision (a) may apply to fewer than five
20 consecutive policy years.

21 4. No basic cash value may be less than the value which would be
22 obtained if the adjusted premiums for the policy, as defined in subsection
23 F of this section or section 20-1231.01, whichever is applicable, were
24 substituted for the nonforfeiture factors in the calculation of the basic
25 cash value.

26 5. All adjusted premiums and present values referred to in this
27 subsection shall for a particular policy be calculated on the same mortality
28 and interest bases as are used in demonstrating the policy's compliance with
29 the other subsections of this section. The cash surrender values referred
30 to in this subsection shall include any endowment benefits provided for by
31 the policy.

32 6. Any cash surrender value available other than in the event of
33 default in a premium payment due on a policy anniversary and the amount of
34 any paid-up nonforfeiture benefit available under the policy in the event of
35 default in a premium payment shall be determined in manners consistent with
36 the manners specified for determining the analogous minimum amounts in
37 subsections B, C, D, E and G of this section and section 20-1231.01. The
38 amounts of any cash surrender values and of any paid-up nonforfeiture
39 benefits granted in connection with additional benefits such as those listed
40 in subsection G, paragraph 2 of this section shall conform with the
41 principles of this subsection.

42 1. Exceptions. This section and section 20-1231.01 do not apply to
43 any of the following:

44 1. Reinsurance.

45 2. Group insurance.

1 3. Pure endowment.

2 4. Annuity or reversionary annuity contract.

3 5. A term policy of uniform amount which provides no guaranteed
4 nonforfeiture or endowment benefits, or renewal thereof, of twenty years or
5 less expiring before age seventy-one, for which uniform premiums are payable
6 during the entire term of the policy.

7 6. A term policy of decreasing amount, which provides no guaranteed
8 nonforfeiture or endowment benefits, on which each adjusted premium,
9 calculated as specified in subsection F of this section and section
10 20-1231.01, is less than the adjusted premiums so calculated on a term policy
11 of uniform amount, or renewal thereof, which provides no guaranteed
12 nonforfeiture or endowment benefits, issued at the same age and for the same
13 initial amount of insurance and for a term of twenty years or less expiring
14 before age seventy-one, for which uniform premiums are payable during the
15 entire term of the policy.

16 7. Any policy which is delivered outside this state through an agent
17 INSURANCE PRODUCER or other representative of the insurer issuing the policy.

18 8. A policy, which provides no guaranteed nonforfeiture or endowment
19 benefits, for which no cash surrender value, if any, or present value of any
20 paid-up nonforfeiture benefit, at the beginning of any policy year,
21 calculated as specified in subsections D, E and F of this section and section
22 20-1231.01, exceeds two and one-half per cent of the amount of insurance at
23 the beginning of the same policy year. For the purposes of determining the
24 applicability of this section, the age at expiry for a joint term life
25 insurance policy is the age at expiry of the oldest life.

26 J. Operative date. Except as is otherwise provided in subsection F
27 of this section, after January 1, 1955, any insurer may file with the
28 director a written notice of its election to comply with the provisions of
29 this section after a specified date before July 1, 1956. After the filing
30 of such notice, then upon such specified date, which shall be the operative
31 date for such insurer, this section shall become operative with respect to
32 the policies thereafter issued by the insurer. If an insurer makes no such
33 election, the operative date of this section for the insurer shall be July
34 1, 1956.

35 Sec. 12. Section 20-1232, Arizona Revised Statutes, is amended to
36 read:

37 20-1232. Standard nonforfeiture law for individual deferred
38 annuities

39 A. Except as provided in subsection L, no contract of annuity, except
40 as stated in subsection K, shall be delivered or issued for delivery in this
41 state from and after June 30, 1979 unless such contract contains in substance
42 the following provisions or corresponding provisions which in the opinion of
43 the director are at least as favorable to the contract holder:

1 1. That upon cessation of payment of considerations under a contract,
2 the company shall grant a paid-up annuity benefit on a plan stipulated in the
3 contract of such value as is specified in subsections D, E, F, G and I.

4 2. If a contract provides for a lump sum settlement at maturity, or
5 at any other time, that upon surrender of the contract at or prior to the
6 commencement of any annuity payments, the company shall pay in lieu of any
7 paid-up annuity benefit a cash surrender benefit of such amount as is
8 specified in subsections D, E, G and I. The company shall reserve the right
9 to defer the payment of such cash surrender benefit for a period of six
10 months after demand for such cash surrender benefit with surrender of the
11 contract.

12 3. A statement of the mortality table, if any, and interest rates used
13 in calculating any minimum paid-up annuity, cash surrender or death benefits
14 that are guaranteed under the contract, together with sufficient information
15 to determine the amounts of such benefits.

16 4. A statement that any paid-up annuity, cash surrender or death
17 benefits that may be available under the contract are not less than the
18 minimum benefits required by any statute of the state in which the contract
19 is delivered and an explanation of the manner in which such benefits are
20 altered by the existence of any additional amounts credited by the company
21 to the contract, any indebtedness to the company on the contract or any prior
22 withdrawals from or partial surrenders of the contract.

23 B. Notwithstanding the requirements of subsection A, any deferred
24 annuity contract may provide that if no consideration has been received under
25 a contract for a period of two full years and the portion of the paid-up
26 annuity benefit at maturity on the plan stipulated in the contract arising
27 from considerations paid prior to such period would be less than twenty
28 dollars monthly, the company may, at its option, terminate such contract by
29 payment in cash of the then present value of such portion of the paid-up
30 annuity benefit, calculated on the basis of the mortality table, if any, and
31 interest rate specified in the contract for determining the paid-up annuity
32 benefit, and by such payment shall be relieved of any further obligation
33 under such contract.

34 C. The minimum values as specified in subsections D, E, F, G and I of
35 any paid-up annuity, cash surrender or death benefits available under an
36 annuity contract shall be based upon minimum nonforfeiture amounts prescribed
37 by this subsection:

38 1. With respect to contracts providing for flexible considerations,
39 the minimum nonforfeiture amount at any time at or prior to the commencement
40 of any annuity payments shall be equal to an accumulation up to such time at
41 a rate of interest of three per cent per annum of percentages of the net
42 considerations paid prior to such time, decreased by the sum of any prior
43 withdrawals from or partial surrenders of the contract accumulated at a rate
44 of interest of three per cent per annum and the amount of any indebtedness
45 to the company on the contract, including interest due and accrued, and

increased by any existing additional amounts credited by the company to the contract. For the purposes of this subsection, "net considerations" means, for a given contract year used to define the minimum nonforfeiture amount, an amount not less than zero and equal to the corresponding gross considerations credited to the contract during that contract year less an annual contract charge of thirty dollars and less a collection charge of one dollar and twenty-five cents per consideration credited to the contract during that contract year. The percentages of net considerations shall be sixty-five per cent of the net consideration for the first contract year and eighty-seven and one-half per cent of the net considerations for the second and subsequent contract years. Notwithstanding the provisions of the preceding sentence, the percentage shall be sixty-five per cent of the portion of the total net consideration for any renewal contract year which exceeds by not more than two times the sum of those portions of the net considerations in all prior contract years for which the percentage was sixty-five per cent.

2. With respect to contracts providing for fixed scheduled considerations, minimum nonforfeiture amounts shall be calculated on the assumption that considerations are paid annually in advance and shall be defined as for contracts with flexible considerations which are paid annually with the following two exceptions:

(a) The portion of the net consideration for the first contract year to be accumulated shall be the sum of sixty-five per cent of the net consideration for the first contract year plus twenty-two and one-half per cent of the excess of the net consideration for the first contract year over the lesser of the net considerations for the second and third contract years.

(b) The annual contract charge shall be the lesser of thirty dollars or ten per cent of the gross annual consideration.

3. With respect to contracts providing for a single consideration, minimum nonforfeiture amounts shall be defined as for contracts with flexible considerations except that the percentage of net consideration used to determine the minimum nonforfeiture amount shall be equal to ninety per cent and the net consideration shall be the gross consideration less a contract charge of seventy-five dollars.

D. Any paid-up annuity benefit available under a contract shall be such that its present value on the date annuity payments are to commence is at least equal to the minimum nonforfeiture amount on that date. Such present value shall be computed using the mortality table, if any, and the interest rate specified in the contract for determining the minimum paid-up annuity benefits guaranteed in the contract.

E. For contracts which provide cash surrender benefits, such cash surrender benefits available prior to maturity shall not be less than the present value as of the date of surrender of that portion of the maturity value of the paid-up annuity benefit which would be provided under the contract at maturity arising from considerations paid prior to the time of

1 cash surrender reduced by the amount appropriate to reflect any prior
2 withdrawals from or partial surrenders of the contract. Such present value
3 shall be calculated on the basis of an interest rate not more than one per
4 cent higher than the interest rate specified in the contract for accumulating
5 the net considerations to determine such maturity value, decreased by the
6 amount of any indebtedness to the company on the contract, including interest
7 due and accrued, and increased by any existing additional amounts credited
8 by the company to the contract. In no event shall any cash surrender benefit
9 be less than the minimum nonforfeiture amount at that time. The death
10 benefit under such contracts shall be at least equal to the cash surrender
11 benefit.

12 F. For contracts which do not provide cash surrender benefits, the
13 present value of any paid-up annuity benefit, available as a nonforfeiture
14 option at any time prior to maturity shall not be less than the present value
15 of that portion of the maturity value of the paid-up annuity benefit provided
16 under the contract arising from considerations paid prior to the time the
17 contract is surrendered in exchange for, or changed to, a deferred paid-up
18 annuity. Such present value shall be calculated for the period prior to the
19 maturity date on the basis of the interest rate specified in the contract for
20 accumulating the net considerations to determine such maturity value and
21 increased by any existing additional amounts credited by the company to the
22 contract. For contracts which do not provide any death benefits prior to the
23 commencement of any annuity payments, such present values shall be calculated
24 on the basis of such interest rate and the mortality table specified in the
25 contract for determining the maturity value of the paid-up annuity
26 benefit. However, in no event shall the present value of a paid-up annuity
27 benefit be less than the minimum nonforfeiture amount at that time.

28 G. For the purpose of determining the benefits calculated under
29 subsections E and F, in the case of annuity contracts under which an election
30 may be made to have annuity payments commence at optional maturity dates, the
31 maturity date shall be deemed to be the latest date for which election shall
32 be permitted by the contract, but shall not be deemed to be later than the
33 anniversary of the contract next following the annuitant's seventieth
34 birthday or the tenth anniversary of the contract, whichever is later.

35 H. Any contract which does not provide cash surrender benefits or does
36 not provide death benefits at least equal to the minimum nonforfeiture amount
37 prior to the commencement of any annuity payments shall include a statement
38 in a prominent place in the contract that such benefits are not provided.

39 I. Any paid-up annuity, cash surrender or death benefits available at
40 any time, other than on the contract anniversary under any contract with
41 fixed scheduled considerations, shall be calculated with allowance for the
42 lapse of time and the payment of any scheduled considerations beyond the
43 beginning of the contract year in which cessation of payment of
44 considerations under the contract occurs.

J. For any contract which provides, within the same contract by rider or supplemental contract provision, both annuity benefits and life insurance benefits that are in excess of the greater of cash surrender benefits or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall be equal to the sum of the minimum nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits, if any, for the life insurance portion computed as if each portion were a separate contract. Notwithstanding the provisions of subsections D, E, F, G and I, additional benefits payable in the event of total and permanent disability or as reversionary annuity or deferred reversionary annuity benefits or as other policy benefits additional to life insurance, endowment and annuity benefits, and considerations for all such additional benefits, shall be disregarded in ascertaining the minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits that may be required by this section. The inclusion of such additional benefits shall not be required in any paid-up benefits, unless such additional benefits separately would require minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits.

K. This section shall not apply to any reinsurance, group annuity purchased under a retirement plan or plan of deferred compensation established or maintained by an employer ~~or~~, including a partnership or sole proprietorship, or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the internal revenue code, as now or hereafter amended, premium deposit fund, variable annuity, investment annuity, immediate annuity, any deferred annuity contract after annuity payments have commenced, or reversionary annuity, nor to any contract which shall be delivered outside this state through an agent INSURANCE PRODUCER or other representative of the company issuing the contract.

L. From and after June 30, 1977 any company may file with the director a written notice of such company's election to comply with the provisions of this section after a specified date before July 1, 1979. After the filing of such notice, such specified date, shall be the operative date of this section for such company and this section shall become operative with respect to annuity contracts thereafter issued by such company. If a company makes no such election, the operative date of this section for such company shall be from and after June 30, 1979.

Sec. 13. Section 20-1233, Arizona Revised Statutes, is amended to read:

20-1233. Free look; annuity contracts

A. Each annuity contract delivered or issued for delivery in this state and each annuity application shall contain a notice prominently printed on or attached to the first page stating that, on written request, an insurer is required to provide within a reasonable time reasonable factual information regarding the benefits and provisions of the annuity contract to the contract holder and that if for any reason the contract holder is not

1 satisfied with the annuity contract the contract holder may return the
2 annuity contract within ten days after the contract is delivered and receive
3 a refund of all monies paid.

4 B. Notwithstanding subsection A, for variable annuity contracts, the
5 refund under subsection A shall equal the sum of the difference between the
6 premiums paid, including any policy or contract fees or other charges, and
7 the amounts allocated to any separate accounts under the policy or contract,
8 and the value of the amounts allocated to any separate accounts under the
9 policy or contract on the date the returned policy is received by the insurer
10 or its agent INSURANCE PRODUCER.

11 Sec. 14. Section 20-1311, Arizona Revised Statutes, is amended to
12 read:

13 20-1311. Authority to alter contract

14 There shall be a provision that no agent INSURANCE PRODUCER shall have
15 the power or authority to waive, change or alter any of the terms or
16 conditions of any policy, except that at the option of the insurer the terms
17 or conditions may be changed by an endorsement signed by a duly authorized
18 officer of the insurer.

19 Sec. 15. Section 20-1508, Arizona Revised Statutes, is amended to
20 read:

21 20-1508. Designation as standard policy; producer's name

22 A. There may be printed upon the standard fire policy the words,
23 "standard fire insurance policy for Arizona", and there may be inserted
24 before and after the word "Arizona" a designation of any state or states in
25 which such form of policy is standard.

26 B. There may be endorsed on the outside of any such policy the name,
27 with the word "~~agent~~" or "~~agents~~" "PRODUCER" OR "PRODUCERS" and place of
28 business, of any insurance agent or agents PRODUCER, either by writing,
29 printing, stamping or otherwise.

30 Sec. 16. Section 20-1612, Arizona Revised Statutes, is amended to
31 read:

32 20-1612. Authorization for issuance of policies

33 A. Each policy, certificate of insurance, application for insurance,
34 endorsement and rider of credit life insurance or credit disability insurance
35 delivered or issued for delivery in this state shall be by an insurer
36 authorized by the director to transact insurance in Arizona THIS STATE.

37 B. In any transaction where a premium is collected from, or a payment
38 made by, a debtor for credit life insurance or credit disability insurance,
39 each policy, certificate of insurance, application for insurance, endorsement
40 and rider shall be solicited by and placed through a holder of a license
41 issued by the director in accordance with chapter 2, article 3 of this title.
42 Nothing in this section requires a creditor to be licensed as an insurance
43 agent PRODUCER solely because the creditor enrolls individuals in or
44 administers a subsisting contract of group insurance.

1 Sec. 17. Section 20-1631, Arizona Revised Statutes, is amended to
2 read:

3 20-1631. Definition; cancellation of or failure to renew
4 coverage; limitations; limitation of liability;
5 exceptions; insurance producers

6 A. In this article, unless the context otherwise requires, "motor
7 vehicle" means a licensed land, motor-driven vehicle but does not mean:

8 1. A private passenger or station wagon type vehicle used as a public
9 or livery conveyance or rented to others.

10 2. Any other four-wheel motor vehicle of a load capacity of fifteen
11 hundred pounds or less which is used in the business of transporting
12 passengers for hire, used in business primarily to transport property or
13 equipment, used as a public or livery conveyance or rented to others.

14 3. Any motor vehicle with a load capacity of more than fifteen hundred
15 pounds.

16 B. A motor vehicle used as a public or livery conveyance or rented to
17 others does not include a motor vehicle used in the course of volunteer work
18 for a tax-exempt organization as described in section 43-1201, paragraph 4.

19 C. An insurer shall not cancel or refuse to renew a motor vehicle
20 insurance policy solely because of the location of residence, age, race,
21 color, religion, sex, national origin or ancestry of anyone who is an
22 insured.

23 D. An insurer shall not issue a motor vehicle insurance policy in this
24 state unless the cancellation and renewal conditions of the policy or the
25 endorsement on the policy includes the limitations required by this section.
26 After a policy issued in this state has been in effect for sixty days, or if
27 the policy is a renewal, effective immediately, the company shall not
28 exercise its right to cancel or fail to renew the insurance afforded under
29 the policy unless:

30 1. The named insured fails to discharge when due any of the
31 obligations of the named insured in connection with the payment of premium
32 for this policy or any installment of the premium.

33 2. The insurance was obtained through fraudulent misrepresentation.

34 3. The named insured, any person who resides in the same household as
35 the named insured and customarily operates a motor vehicle insured under the
36 policy or any other person who regularly and frequently operates a motor
37 vehicle insured under the policy:

38 (a) Has had his or her driver's license suspended or revoked during
39 the policy period.

40 (b) Becomes permanently disabled, either physically or mentally, and
41 such individual does not produce a certificate from a physician testifying
42 to such person's ability to operate a motor vehicle.

43 (c) Is or has been convicted during the thirty-six months immediately
44 preceding the effective date of the policy or during the policy period of:

1 (i) Criminal negligence, resulting in death, homicide or assault,
2 arising out of the operation of a motor vehicle.

3 (ii) Operating a motor vehicle while in an intoxicated condition or
4 while under the influence of drugs.

5 (iii) Leaving the scene of an accident.

6 (iv) Making false statements in an application for a driver's license.

7 (v) Reckless driving.

8 4. The insurer is placed in rehabilitation or receivership by the
9 insurance supervisory official in its state of domicile or by a court of
10 competent jurisdiction or the director has suspended the insurer's
11 certificate of authority based on its financially hazardous condition.

12 5. The named insured, any person who resides in the same household as
13 the named insured and customarily operates a motor vehicle insured under the
14 policy or any other person who regularly and frequently operates a motor
15 vehicle insured under the policy uses a motor vehicle rated or insured under
16 the policy as a private passenger motor vehicle regularly and frequently for
17 commercial purposes.

18 6. The director determines that the continuation of the policy would
19 place the insurer in violation of the laws of this state or would jeopardize
20 the solvency of the insurer.

21 E. In addition to the authorization to fail to renew insurance
22 provided by subsection D of this section, an insurer may exercise its right
23 to fail to renew a motor vehicle insurance policy pursuant to this
24 subsection. An insurer shall provide notice of the nonrenewal to the named
25 insured as prescribed by section 20-1632 at least forty-five days before the
26 nonrenewal. A named insured who disputes the nonrenewal of the named
27 insured's policy may file an objection with the director pursuant to section
28 20-1633. An insurer shall not fail to renew more than one-half of one per
29 cent of its policies annually pursuant to this subsection. An insurer may
30 fail to renew a motor vehicle insurance policy if the named insured, any
31 person who resides in the same household as the named insured and who
32 customarily operates a motor vehicle insured under the policy or any other
33 person who regularly and frequently operates a motor vehicle insured under
34 the policy has had at any time during the thirty-six months immediately
35 before the notice of nonrenewal three or more at-fault accidents under any
36 motor vehicle insurance policy issued by this insurer in which the property
37 damage paid by the insurer for each accident which occurred prior to January
38 1, 2000 is more than one thousand eight hundred dollars. For accidents
39 occurring on or after January 1, 2000, the department of insurance shall
40 annually adjust and publish, to the nearest ten dollars, the threshold amount
41 of property damages in this subsection by the percentage change in the all
42 items component of the consumer price index for all urban consumers of the
43 United States department of labor, bureau of labor statistics. The insurer
44 shall not exercise its right to fail to renew the insurance under this
45 subsection unless the same individual has had all the accidents that make the

1 policy subject to nonrenewal under this subsection. The insurer shall not
2 exercise its right to fail to renew a motor vehicle insurance policy pursuant
3 to this subsection due to the accident record of the named insured if the
4 named insured has been insured for standard automobile bodily injury coverage
5 for at least ten consecutive years with the same insurer prior to the most
6 recent accident that makes the policy subject to nonrenewal under this
7 subsection. For purposes of this subsection, "at-fault" means the insured
8 is at least fifty per cent responsible for the accident.

9 F. The company shall not cancel or fail to renew the insurance when
10 a person other than the named insured has violated subsection D, paragraph
11 3 of this section, or fail to renew the insurance pursuant to subsection E
12 of this section due to the driving record of an individual other than the
13 named insured, if the named insured in writing agrees to exclude as insured
14 the person by name when operating a motor vehicle and further agrees to
15 exclude coverage to the named insured for any negligence which may be imputed
16 by law to the named insured arising out of the maintenance, operation or use
17 of a motor vehicle by the excluded person. The written agreement that
18 excludes coverage under a policy for a named individual is effective for each
19 renewal of the policy by the insurer and remains in effect until the insurer
20 agrees in writing to provide coverage for the named individual who was
21 previously excluded from coverage.

22 G. This article does not apply to any policy which has been in effect
23 less than sixty days at the time notice of cancellation is mailed or
24 delivered by the insurer unless the policy is a renewal policy, or to
25 policies:

26 1. Insuring any motor vehicle other than a private passenger motor
27 vehicle as defined in section 20-117.

28 2. Insuring the motor vehicle hazard of garages, motor vehicle sales
29 agencies, repair shops, service stations or public parking places.

30 3. Providing insurance only on an excess basis.

31 H. If a consumer purchases motor vehicle insurance coverage from an
32 ~~agency or agent~~ INSURANCE PRODUCER licensed in this state, the ~~agency or~~
33 ~~agent~~ INSURANCE PRODUCER, whichever owns the policy expiration, shall remain
34 the ~~agent~~ INSURANCE PRODUCER of record for that insured. In the event the
35 insurer terminates the ~~agency's~~ INSURANCE PRODUCER'S contract, the agency
36 INSURANCE PRODUCER shall continue to provide customary services to the
37 insured. The insurer shall provide the agency INSURANCE PRODUCER with a
38 minimum degree of authority necessary to provide customary services to the
39 insured and shall provide the same level of compensation for these services
40 which were in effect prior to the termination of the agency INSURANCE
41 PRODUCER contract.

42 I. Subsection H of this section shall not apply if one or more of the
43 following conditions exist:

44 1. The ~~agent~~ INSURANCE PRODUCER of record has had its license
45 suspended or revoked by the department.

1 2. The agent INSURANCE PRODUCER of record is indebted to the insurer.

2 3. The insured has supplied the insurer with a written request that
3 its agent INSURANCE PRODUCER of record be changed to another agent INSURANCE
4 PRODUCER of the insurer.

5 4. The agent INSURANCE PRODUCER of record has authorized transfer of
6 this account to another licensed agent INSURANCE PRODUCER of the insurer.

7 5. The director has determined after a public hearing that
8 continuation of this relationship is not in the best interest of the public.

9 6. The agent INSURANCE PRODUCER of record is under an exclusive
10 contract or contract requiring the agent INSURANCE PRODUCER to submit all
11 eligible business to an insurer or group of insurers under a common
12 management.

13 J. Subsection H of this section shall not apply to any transaction in
14 which the expiration of the policies is owned by the insurer.

15 K. Notwithstanding any law to the contrary, the issuance at renewal
16 of revised policy provisions to modify an existing policy by adding coverages
17 or policy provisions, modifying coverages or policy provisions, or
18 eliminating coverages or policy provisions is not a nonrenewal or
19 cancellation of the policy if the modification of a basic coverage does not
20 eliminate the essential benefit of that basic coverage. If the modification
21 of the basic coverage eliminates the essential benefit of the basic coverage,
22 the director shall order the insurer to remove the modification from the
23 policy. This subsection does not allow the insurer, without the written
24 consent of the insured, to eliminate the basic coverages of the policy or to
25 reduce the monetary limits of any of the basic coverages of the policy that
26 were selected and agreed on. This subsection does not limit a policyholder
27 from continuing to renew uninsured or underinsured motorist coverage pursuant
28 to section 20-259.01. For the purposes of this subsection, "basic coverage"
29 means any of the following:

30 1. Bodily injury coverage.

31 2. Property damage coverage.

32 3. Uninsured motorist coverage.

33 4. Underinsured motorist coverage.

34 5. Medical payments coverage.

35 6. Comprehensive coverage.

36 7. Collision coverage.

37 L. For purposes of this section "fail to renew" or "nonrenewal" does
38 not include the issuance and delivery of a new policy within the same insurer
39 or an insurer under the same ownership or management as the original insurer
40 as provided in this subsection. An insurer may transfer up to one per cent
41 of its policies to an affiliated insurer within one calendar year if under
42 a policy to be transferred one or more of the insureds that are insured under
43 the policy have individually within the past thirty-six months had two or
44 more at-fault accidents under any motor vehicle insurance policy issued by
45 this insurer in which the property damage paid by the insurer for each

1 accident exceeded one thousand five hundred dollars or individually have had
 2 three or more moving violations. Moving violations for which an insured
 3 completes an approved traffic school program shall not be considered as a
 4 moving violation under this section. A company shall not transfer a policy
 5 if a named insured agrees in writing to exclude as an insured a person or
 6 persons who each individually meet the criteria for transfer pursuant to this
 7 subsection and further agrees to exclude coverage for any negligence which
 8 may be imputed by law to the named insured arising out of the maintenance,
 9 operation or use of a motor vehicle by such excluded person or persons. An
 10 insurer shall transfer only those individuals responsible for the at-fault
 11 accidents or moving violations, and the excluded or transferred insured's
 12 driving record shall not be used in determining rates, surcharges or premiums
 13 for the nonexcluded or nontransferred insured. The one per cent limit set
 14 forth in this subsection shall not apply to transfers of policies from the
 15 original insurer to another insurer under the same ownership or management
 16 as the original insurer if the rates charged by the other insurer are lower
 17 than the rates charged by the original insurer. No insurer shall transfer
 18 policyholders because of their location of residence, age, race, color,
 19 religion, sex, national origin or ancestry. Transfers by an insurer pursuant
 20 to this subsection shall not be construed to permit a new unrestricted sixty
 21 day period for cancellation or nonrenewal.

22 M. Except as provided in this subsection, an insurer shall not refuse
 23 to renew a policy until after August 31, 1998, based on an insured's failure
 24 to maintain membership in a bona fide association, until both the insurer and
 25 bona fide association have complied with this subsection and shall not refuse
 26 to renew any coverage continuously in effect before September 1, 1998,
 27 subject to all the following:

28 1. In addition to any other reason provided in this section, an
 29 insurer may refuse to renew an insurance policy issued pursuant to this
 30 article if all of the following conditions apply:

31 (a) The insurer clearly discloses to the applicant and the insured in
 32 the application for insurance and insurance policy that both the payment of
 33 dues and current membership in the bona fide association are prerequisites
 34 to obtaining or renewing the insurance.

35 (b) Any money paid to the bona fide association as a membership fee:

36 (i) Is not used by the insurer directly or indirectly to defray any
 37 costs or expenses in connection with the sale or purchase of the insurance.

38 (ii) Is set independently of any factor used by the insurer to make
 39 any judgment or determination about the eligibility of any individual,
 40 including the member, an employee of a member or a dependent of a member, to
 41 purchase or renew the insurance.

42 (c) The bona fide association has filed a certification with the
 43 director verifying the eligibility of the insurer to refuse to renew an
 44 insurance policy based on membership in the bona fide association.

1 2. To qualify as a bona fide association pursuant to this subsection,
2 the association shall meet all of the requirements of this paragraph. The
3 association shall file a statement with the director at least thirty days
4 before the commencement of the offer or sale of insurance as provided by this
5 subsection verifying that the association meets the requirements of this
6 paragraph. The association shall update the filing required by this
7 paragraph at least thirty days before the effective date of any material
8 change in the information contained in the statement, and shall file a
9 separate notice with the director if the insurance described in the statement
10 is no longer available through the association. The statement shall include
11 the following information:

12 (a) That the association has been in active existence for at least
13 five consecutive years immediately before the filing of the statement.

14 (b) That the association has been formed and maintained in good faith
15 for purposes other than obtaining or providing insurance and does not
16 condition membership in the association on the purchase of insurance.

17 (c) That the association has articles of incorporation and bylaws or
18 other similar governing documents.

19 (d) That the association does not condition membership in the
20 association or set membership fees on the eligibility of any individual,
21 including the member, an employee of the member or a dependent of the member,
22 to purchase or renew the insurance, or on any factor that the insurer could
23 not lawfully consider when setting rates.

24 (e) That the association has a relationship with a specific insurer
25 or insurers and identifies the insurer or insurers.

26 3. Membership fees collected by the bona fide association are not
27 premiums of the insurer that issued the coverage unless the bona fide
28 association:

29 (a) Uses any portion of the membership fees directly or indirectly to
30 defray any costs or expenses in connection with the sale or purchase of the
31 insurance.

32 (b) Sets or adjusts membership fees for any member of the bona fide
33 association based on any factor used by the insurer that issues the insurance
34 to make any judgment or determination about the eligibility of any
35 individual, including the member, an employee of the member or a dependent
36 of the member, to purchase or renew the insurance.

37 4. If the membership fees constitute premiums pursuant to paragraph
38 3 of this subsection, an insurer shall not refuse to renew a policy as
39 otherwise permitted by this subsection.

1 Sec. 18. Section 20-1655, Arizona Revised Statutes, is amended to
2 read:

3 20-1655. Liability of insurer and representatives for
4 statements in notice of cancellation, other
5 communication or evidence given in court relating to
6 cancellation

7 There shall be no liability on the part of, and no cause of action of
8 any nature shall arise against, any insurer or its authorized
9 representatives, agents or employees, or any licensed insurance agent or
10 broker PRODUCER, for any statement made, unless shown to have been made in
11 bad faith with malice in any of the following:

12 1. Written notice of cancellation or nonrenewal or in any other oral
13 or written communication specifying the reasons for cancellation or
14 nonrenewal.

15 2. Communication providing information pertaining to such cancellation
16 or nonrenewal.

17 3. Evidence submitted at any court proceeding or informal inquiry in
18 which such cancellation or nonrenewal is an issue.

19 Sec. 19. Section 20-1675, Arizona Revised Statutes, is amended to
20 read:

21 20-1675. Liability of insurer and representatives for
22 statements in notice of cancellation, other
23 communication or evidence given in court relating to
24 cancellation

25 There is no liability on the part of and no cause of action of any
26 nature arises against any insurer or its authorized representatives, agents
27 or employees, or any licensed insurance agent or broker PRODUCER, for any
28 statement made, unless shown to have been made in bad faith with malice, in
29 any of the following:

30 1. A written notice of cancellation or in any other oral or written
31 communication specifying the reasons for cancellation.

32 2. A communication providing information pertaining to such
33 cancellation.

34 3. Evidence submitted at any court proceeding or informal inquiry in
35 which such cancellation is an issue.

36 Sec. 20. Section 20-1691.01, Arizona Revised Statutes, is amended to
37 read:

38 20-1691.01. Adoption of rules

39 A. The director may adopt reasonable rules for the following:

40 1. To establish specific standards for policy provisions of long-term
41 care insurance policies.

42 2. To establish loss ratio standards for long-term care insurance
43 policies provided that a specific reference to long-term care insurance
44 policies is contained in the rule.

1 3. To establish standards for disclosure of policy provisions,
2 conditions and limitations.

3 4. To establish minimum standards for marketing practices, agent
4 INSURANCE PRODUCER testing and reporting practices relating to long-term care
5 insurance and penalties for violating the standards.

6 8. Rules adopted pursuant to subsection A, paragraph 1 shall be
7 limited to initial and subsequent conditions of eligibility, duplication of
8 coverage provisions, coverage of dependents, preexisting conditions,
9 termination of insurance, probationary periods, limitations, exceptions,
10 reductions, elimination periods, requirements for replacement, recurrent
11 conditions and definitions of terms.

12 Sec. 21. Section 20-1691.04, Arizona Revised Statutes, is amended to
13 read:

14 20-1691.04. Outline of coverage; certificate

15 A. An outline of coverage shall be delivered to an applicant for an
16 individual long-term care insurance policy at the time of application for an
17 individual policy. In the case of direct response solicitations, the outline
18 of coverage shall be presented in conjunction with an application or
19 enrollment form. In the case of agent INSURANCE PRODUCER solicitations, the
20 agent INSURANCE PRODUCER shall deliver the outline of coverage before the
21 presentation of an application or enrollment form. The outline of coverage
22 shall include all of the following:

23 1. A description of the principal benefits and coverage provided in
24 the policy.

25 2. A statement of the principal exclusions, reductions and limitations
26 contained in the policy.

27 3. A statement of the renewal provisions, including any reservation
28 in the policy of a right to change premiums.

29 4. A statement that the outline of coverage is a summary of the policy
30 issued or applied for, and that the policy should be consulted to determine
31 governing contractual provisions.

32 5. A statement and description of whether the policy constitutes a
33 qualified long-term care insurance contract within the meaning of title III
34 of the health insurance portability and accountability act of 1996 (P.L.
35 104-191).

36 B. A policy summary for an individual life insurance policy that
37 provides long-term care benefits within the policy or by rider shall be
38 delivered to the policyholder when the policy is delivered. In the case of
39 direct response solicitations, the insurer shall deliver a policy summary on
40 the applicant's request. If an applicant does not request the delivery of
41 a policy summary, the insurer shall deliver the policy summary no later than
42 at the time the policy is delivered. A policy summary shall include:

43 1. An explanation of how the long-term care benefits interact with
44 other components of the policy, including deductions from death benefits.

1 2. An explanation of the amount of benefits, the length of benefits
2 and the guaranteed lifetime benefits, if any, for each covered person.

3 3. Any exclusions, reductions or limitations on benefits of long-term
4 care.

5 4. If applicable to the type of policy that is issued:

6 (a) A disclosure of the effects of exercising other rights under the
7 policy.

8 (b) A disclosure of guarantees that are related to long-term care
9 costs of insurance charges.

10 (c) Current and projected maximum lifetime benefits.

11 5. An explanation of the monthly reporting requirements for life
12 insurance policies with an accelerated death benefits option.

13 C. The insurer shall provide a monthly report to the insured any time
14 a long-term care benefit that is funded through a life insurance vehicle by
15 the acceleration of the death benefit is in benefit payment status and the
16 report shall include:

17 1. Any long-term care benefits paid out during the month.

18 2. An explanation of any changes in the policy, including death
19 benefits or cash values, due to long-term care benefits paid out.

20 3. The amount of long-term care benefits existing or remaining.

21 D. A certificate issued pursuant to a group long-term care insurance
22 policy that is delivered or issued for delivery in this state shall include
23 all of the following:

24 1. A description of the principal benefits and coverage provided in
25 the policy.

26 2. A statement of the principal exclusions, reductions and limitations
27 contained in the policy.

28 3. A statement that the group master policy should be consulted to
29 determine governing contractual provisions.

30 Sec. 22. Section 20-1691.07, Arizona Revised Statutes, is amended to
31 read:

32 20-1691.07. Penalties

33 In addition to any other penalty provided by law, an insurer or agent
34 INSURANCE PRODUCER who is found to have violated any provision relating to
35 the regulation of long-term care insurance or the marketing of long-term care
36 insurance is subject to a civil penalty of up to three times the amount of
37 any commissions paid for each policy involved in the violation or up to ten
38 thousand dollars, whichever is more.

39 Sec. 23. Section 20-1691.08, Arizona Revised Statutes, is amended to
40 read:

41 20-1691.08. Contestable periods

42 A. If a policy or certificate has been in force for less than six
43 months, an insurer may rescind a long-term care insurance policy or
44 certificate or deny an otherwise valid long-term care insurance claim only

1 on a showing of misrepresentation that is material to the acceptance for
2 coverage.

3 B. If a policy or certificate has been in force for at least six
4 months but less than two years, an insurer may rescind a long-term care
5 insurance policy or certificate or deny an otherwise valid long-term care
6 insurance claim only on a showing of misrepresentation that is both material
7 to the acceptance for coverage and that pertains to the condition for which
8 benefits are sought.

9 C. After a policy or certificate has been in force for two years it
10 is not contestable solely for misrepresentation, but the insurer may contest
11 the policy or certificate on a showing that the insured knowingly and
12 intentionally misrepresented relevant facts relating to the insured's health.

13 D. An agent INSURANCE PRODUCER or third party administrator shall not
14 issue a long-term insurance policy or certificate pursuant to the
15 underwriting authority granted to the agent INSURANCE PRODUCER or third party
16 administrator by an insurer that is based on medical or health status.

17 E. If an insurer paid benefits under the long-term care insurance
18 policy or certificate, the insurer shall not recover the benefit payments if
19 the insurer rescinds the policy or certificate.

20 Sec. 24. Section 20-2101, Arizona Revised Statutes, is amended to
21 read:

22 20-2101. Scope

23 A. This chapter applies to insurance institutions, agents INSURANCE
24 PRODUCERS or insurance support organizations that:

25 1. In the case of life, health or disability insurance either:

26 (a) Collect, receive or maintain information in connection with
27 insurance transactions that pertain to natural persons who are residents of
28 this state.

29 (b) Engage in insurance transactions with applicants, individuals or
30 policyholders who are residents of this state.

31 2. In the case of property or casualty insurance:

32 (a) Collect, receive or maintain information in connection with
33 insurance transactions involving policies, contracts or certificates of
34 insurance delivered, issued for delivery or renewed in this state.

35 (b) Engage in insurance transactions involving policies, contracts or
36 certificates of insurance delivered, issued for delivery or renewed in this
37 state.

38 B. The rights granted by this chapter extend to:

39 1. In the case of life, health or disability insurance, the persons
40 who are residents of this state, including natural persons who are the
41 subject of information collected, received or maintained in connection with
42 insurance transactions, and applicants, individuals or policyholders who
43 engage in or seek to engage in insurance transactions.

44 2. In the case of property or casualty insurance, the persons,
45 including natural persons who are the subject of information collected,

1 received or maintained in connection with insurance transactions involving
2 policies, contracts or certificates or OF insurance delivered, issued for
3 delivery or renewed in this state, and applicants, individuals or
4 policyholders who engage in or seek to engage in insurance transactions
5 involving policies, contracts or certificates of insurance delivered, issued
6 for delivery or renewed in this state.

7 C. For purposes of this section, a person is considered a resident of
8 this state if the person's last known mailing address, as shown in the
9 records of the insurance institution, agent INSURANCE PRODUCER or insurance
10 support organization, is located in this state.

11 D. Notwithstanding subsections A and B, this chapter does not apply
12 to information collected from the public records of a governmental authority
13 and maintained by an insurance institution or its representatives for the
14 purpose of insuring the title to real property located in this state.

15 Sec. 25. Section 20-2102, Arizona Revised Statutes, is amended to
16 read:

17 20-2102. Definitions

18 In this chapter, unless the context otherwise requires:

19 1. "Adverse underwriting decision" means any of the following actions
20 involving insurance coverage which is individually underwritten:

21 (a) A declination of insurance coverage.

22 (b) A termination of insurance coverage.

23 (c) Failure of an agent INSURANCE PRODUCER to apply for insurance
24 coverage with a specific insurance institution which the agent INSURANCE
25 PRODUCER represents and which is requested by an applicant.

26 (d) In the case of property or casualty insurance coverage, placement
27 by an insurance institution or agent INSURANCE PRODUCER of a risk with a
28 residual market mechanism, an unauthorized insurer or an insurance
29 institution which specializes in substandard risks, or the charging of a
30 higher rate on the basis of information which differs from that which the
31 applicant or policyholder furnished.

32 (e) In the case of life, health or disability insurance coverage, an
33 offer to insure at higher than standard rates.

34 Notwithstanding subdivisions (a) through (e) of this paragraph the
35 termination of an individual policy form on a class or statewide basis, a
36 declination of insurance coverage solely because the coverage is not
37 available on a class or statewide basis or the rescission of a policy is not
38 considered adverse underwriting decisions, but the insurance institution or
39 agent INSURANCE PRODUCER responsible for their occurrence shall provide the
40 applicant or policyholder with the specific reasons for their occurrence.

41 2. "Affiliate" or "affiliated" means a person that directly or
42 indirectly through one or more intermediaries controls, is controlled by or
43 is under common control with another person.

44 3. ~~"Agent" means an agent, broker, managing general agent or service~~
45 ~~representative as defined in this title.~~

1 ~~4.~~ 3. "Applicant" means any person who seeks to contract for
2 insurance coverage other than a person seeking group insurance that is not
3 individually underwritten.

4 ~~5.~~ 4. "Consumer report" means any written, oral or other
5 communication of information bearing on a natural person's creditworthiness,
6 credit standing, credit capacity, character, general reputation, personal
7 characteristics or mode of living and which is used or expected to be used
8 in connection with an insurance transaction.

9 ~~6.~~ 5. "Consumer reporting agency" means any person who does any of
10 the following:

11 (a) Regularly engages, in whole or in part, in the practice of
12 assembling or preparing consumer reports for a monetary fee.

13 (b) Obtains information primarily from sources other than insurance
14 institutions.

15 (c) Furnishes consumer reports to other persons.

16 ~~7.~~ 6. "Control", including the terms "controlled by" or "under common
17 control with", means the possession, direct or indirect, of the power to
18 direct or cause the direction of the management and policies of a person,
19 whether through the ownership of voting securities, by contract other than
20 a commercial contract for goods or nonmanagement services, or otherwise,
21 unless the power is the result of an official position with or corporate
22 office held by the person.

23 ~~8.~~ 7. "Declination of insurance coverage" means a denial, in whole
24 or in part, by an insurance institution or ~~agent~~ INSURANCE PRODUCER of
25 requested insurance coverage.

26 ~~9.~~ 8. "Individual" means any natural person who:

27 (a) In the case of property or casualty insurance, is a past, present
28 or proposed named insured or certificate holder.

29 (b) In the case of life, health or disability insurance, is a past,
30 present or proposed principal insured or certificate holder.

31 (c) Is a past, present or proposed policyowner.

32 (d) Is a past or present applicant.

33 (e) Is a past or present claimant.

34 (f) Derived, derives or is proposed to derive insurance coverage under
35 an insurance policy or certificate subject to this chapter.

36 ~~10.~~ 9. "Institutional source" means any person or governmental entity
37 that provides information about an individual to an ~~agent~~ INSURANCE PRODUCER,
38 insurance institution or insurance support organization, other than an ~~agent~~
39 INSURANCE PRODUCER, the individual who is the subject of the information or
40 a natural person acting in a personal capacity rather than in a business or
41 professional capacity.

42 ~~11.~~ 10. "Insurance institution" means any corporation, association,
43 partnership, reciprocal insurer, inter-insurer, Lloyd's association,
44 fraternal benefit society or other person engaged in the business of
45 insurance, including health care service organizations and hospital, medical,

1 dental and optometric service corporations as defined in this title.
2 Insurance institution does not include agents INSURANCE PRODUCERS or
3 insurance support organizations.

4 11. "INSURANCE PRODUCER" MEANS AN INSURANCE PRODUCER AS DEFINED IN
5 SECTION 20-281 OR A MANAGING GENERAL AGENT AS DEFINED IN SECTION 20-311.

6 12. "Insurance support organization" means:

7 (a) Any person who regularly engages, in whole or in part, in the
8 practice of assembling or collecting information about natural persons for
9 the primary purpose of providing the information to an insurance institution
10 or agent INSURANCE PRODUCER for insurance transactions, including the
11 furnishing of consumer reports or investigative consumer reports to an
12 insurance institution or agent INSURANCE PRODUCER for use in connection with
13 an insurance transaction or the collection of personal information from
14 insurance institutions, agents INSURANCE PRODUCERS or other insurance support
15 organizations for the purpose of detecting or preventing fraud, material
16 misrepresentation or material nondisclosure in connection with insurance
17 underwriting or insurance claim activity.

18 (b) Notwithstanding subdivision (a) of this paragraph the following
19 persons are not considered insurance support organizations for purposes of
20 this chapter:

21 ~~(i) Agents.~~

22 (i) INSURANCE PRODUCERS.

23 (ii) Government institutions.

24 (iii) Insurance institutions.

25 (iv) Medical care institutions.

26 (v) Medical professionals.

27 13. "Insurance transaction" means any transaction involving insurance
28 primarily for personal, family or household needs rather than business or
29 professional needs and which entails the determination of an individual's
30 eligibility for an insurance coverage, benefit or payment or the servicing
31 of an insurance application, policy, contract or certificate.

32 14. "Investigative consumer report" means a consumer report or portion
33 of a consumer report in which information about a natural person's character,
34 general reputation, personal characteristics or mode of living is obtained
35 through personal interviews with the person's neighbors, friends, associates,
36 acquaintances or others who may have knowledge concerning those items of
37 information.

38 15. "Medical care institution" means any facility or institution that
39 is licensed to provide health care services to natural persons including:

40 (a) Health care service organizations.

41 (b) Home health agencies.

42 (c) Hospitals.

43 (d) Medical clinics.

44 (e) Public health agencies.

45 (f) Rehabilitation agencies.

1 (g) Skilled nursing facilities.

2 16. "Medical professional" means any person licensed or certified to
3 provide health care services to natural persons, including a chiropractor,
4 clinical dietitian, clinical psychologist, dentist, nurse, occupational
5 therapist, optometrist, pharmacist, physical therapist, physician,
6 podiatrist, psychiatric social worker or speech therapist.

7 17. "Medical record information" means personal information which
8 relates to an individual's physical or mental condition, medical history or
9 medical treatment and is obtained from a medical professional or medical care
10 institution, the individual or the individual's spouse, parent or legal
11 guardian.

12 18. "Personal information" means any individually identifiable
13 information gathered in connection with an insurance transaction and from
14 which judgments can be made about an individual's character, habits,
15 avocations, finances, occupation, general reputation, credit, health or any
16 other personal characteristics. Personal information includes an
17 individual's name and address and medical record information but does not
18 include privileged information.

19 19. "Policyholder" means any person who:

20 (a) In the case of individual property or casualty insurance, is a
21 present named insured.

22 (b) In the case of individual life, health or disability insurance,
23 is a present policyowner.

24 (c) In the case of group insurance which is individually underwritten,
25 is a present group certificate holder.

26 20. "Pretext interview" means an interview in which a person, in an
27 attempt to obtain information about a natural person, performs one or more
28 of the following acts:

29 (a) Pretends to be someone he or she is not.

30 (b) Pretends to represent a person he or she is not in fact
31 representing.

32 (c) Misrepresents the true purpose of the interview.

33 (d) Refuses to identify himself or herself upon request.

34 21. "Privileged information" means any individually identifiable
35 information that relates to a claim for insurance benefits or a civil or
36 criminal proceeding involving an individual and is collected in connection
37 with or in reasonable anticipation of a claim for insurance benefits or a
38 civil or criminal proceeding involving an individual, except that information
39 otherwise meeting the requirements of this paragraph is considered personal
40 information under this chapter if it is disclosed in violation of section
41 20-2113.

42 22. "Residual market mechanism" means an agreement for the equitable
43 apportionment among insurers of insurance afforded applicants who are in good
44 faith entitled to but who are unable to procure insurance through ordinary
45 methods.

1 23. "Termination of insurance coverage" or "termination of an insurance
2 policy" means either a cancellation or nonrenewal of an insurance policy, in
3 whole or in part, for any reason other than the failure to pay a premium as
4 required by the policy.

5 24. "Unauthorized insurer" means an insurance institution that has not
6 been granted a certificate of authority by the director to transact insurance
7 in this state.

8 Sec. 26. Section 20-2103, Arizona Revised Statutes, is amended to
9 read:

10 20-2103. Pretext interviews; exception

11 An insurance institution, agent INSURANCE PRODUCER or insurance support
12 organization shall not use or authorize the use of pretext interviews to
13 obtain information in connection with an insurance transaction, except that
14 a pretext interview may be undertaken to obtain information from a person or
15 institution that does not have a generally or statutorily recognized
16 privileged relationship with the person about whom the information relates
17 for the purpose of investigating a claim where, based upon specific
18 information available for review by the director, there is a reasonable basis
19 for suspecting criminal activity, fraud, material misrepresentation or
20 material nondisclosure in connection with the claim.

21 Sec. 27. Section 20-2104, Arizona Revised Statutes, is amended to
22 read:

23 20-2104. Notice of insurance information practices

24 A. An insurance institution or agent INSURANCE PRODUCER shall provide
25 a notice of information practices to applicants and policyholders in
26 connection with insurance transactions as prescribed in this section.

27 B. The insurance institution or agent INSURANCE PRODUCER shall provide
28 the notice at the following times:

29 1. In the case of an application for insurance, not later than when
30 the insurance institution or agent INSURANCE PRODUCER either:

31 (a) Delivers the insurance policy or certificate, if personal
32 information is collected only from the applicant or from public records.

33 (b) First collects personal information from a source other than the
34 applicant or public records.

35 2. In the case of a policy renewal, at least annually during the
36 continuation of the relationship with the policyholder.

37 3. In the case of a policy reinstatement or change in insurance
38 benefits, not later than the time when the insurance institution receives a
39 request for a policy reinstatement or change in insurance benefits except
40 that a notice is not required if a notice was already given within the
41 immediately preceding twelve months.

42 C. The notice shall be in writing or, if the applicant or policyholder
43 agrees, in an electronic form and shall either contain the information
44 required for compliance with the notice requirements established under

1 section 503 of the Gramm-Leach-Bliley act (15 United States Code section
2 6803) or shall state:

3 1. Whether personal information may be collected from persons other
4 than the individual or individuals proposed for coverage.

5 2. The types of personal information that may be collected and the
6 types of sources and investigative techniques that may be used to collect the
7 information.

8 3. The types of disclosures identified in section 20-2113, paragraphs
9 2 through 6, 9, 11, 12 and 14 and the circumstances under which the
10 disclosures may be made without prior authorization, except only those
11 circumstances need be described which occur with such a frequency as to
12 indicate a general business practice.

13 4. A description of the rights established under sections 20-2108 and
14 20-2109 and the manner in which those rights may be exercised.

15 5. That information obtained from a report prepared by an insurance
16 support organization may be retained by the insurance support organization
17 and disclosed to other persons.

18 D. Instead of the notice prescribed in subsection C of this section,
19 the insurance institution or agent INSURANCE PRODUCER may provide an
20 abbreviated notice informing the applicant that:

21 1. Personal information may be collected from persons other than the
22 individual or individuals proposed for coverage.

23 2. The information as well as other personal or privileged information
24 subsequently collected by the insurance institution or agent INSURANCE
25 PRODUCER may in certain circumstances be disclosed to third parties without
26 authorization.

27 3. A right of access and correction exists with respect to all
28 personal information collected.

29 4. The notice prescribed in subsection C of this section will be
30 provided to the applicant on request.

31 E. The obligations imposed by this section on an insurance institution
32 or agent INSURANCE PRODUCER may be satisfied by another insurance institution
33 or agent INSURANCE PRODUCER authorized to act on its behalf.

34 F. If an insurance institution, agent INSURANCE PRODUCER or insurance
35 support organization that is required to give notice under this section gives
36 the notice to the sponsor of an employee benefit plan, a group or blanket
37 insurance policyholder or group annuity contract holder or a workers'
38 compensation plan participant and does not disclose personal information
39 about any of the individuals described in paragraph 1, 2 or 3 of this
40 subsection except as otherwise allowed under section 20-2113, the insurer,
41 producer or insurance support organization is not required to provide the
42 notice to:

43 1. A participant or a beneficiary of an employee benefit plan that the
44 insurer administers or sponsors or for which the insurer acts as trustee,
45 insurer or fiduciary.

2. An individual who is covered under a group or blanket insurance policy or group annuity contract issued by the insurer.

3. A beneficiary in a workers' compensation plan.

G. An insurance institution or agent INSURANCE PRODUCER is not required to give notice under this section to a policyholder whose policy is lapsed, expired or otherwise inactive if the insurance institution or agent INSURANCE PRODUCER has not communicated with the policyholder for at least twelve consecutive months, other than to provide annual privacy notices, material required by law or order of a state or federal regulatory authority or promotional materials.

H. An insurance institution or agent INSURANCE PRODUCER is not required to give notice under this section to a policyholder whose last known address of record is invalid. An address is deemed invalid under this subsection if mail sent to that address by the insurance institution or agent INSURANCE PRODUCER has been returned by the postal authorities as undeliverable and if subsequent attempts by the insurance institution or agent INSURANCE PRODUCER to obtain a valid address for the individual have been unsuccessful.

Sec. 28. Section 20-2105, Arizona Revised Statutes, is amended to read:

20-2105. Marketing and research surveys; disclosure of questions

An insurance institution or agent INSURANCE PRODUCER shall clearly specify those questions designed to obtain information solely for marketing or research purposes from an individual in connection with an insurance transaction.

Sec. 29. Section 20-2106, Arizona Revised Statutes, is amended to read:

20-2106. Content of disclosure authorization forms

Notwithstanding any other statute no insurance institution, agent INSURANCE PRODUCER or insurance support organization may utilize as its disclosure authorization form in connection with insurance transactions a form or statement which authorizes the disclosure of personal or privileged information about an individual to the insurance institution, agent INSURANCE PRODUCER or insurance support organization unless the form or statement:

1. Is written in plain language.

2. Is dated.

3. Specifies the types of persons authorized to disclose information about the individual.

4. Specifies the nature of the information authorized to be disclosed.

5. Names the insurance institution or agent INSURANCE PRODUCER and identifies by generic reference representatives of the insurance institution to whom the individual is authorizing information to be disclosed.

6. Specifies the purposes for which the information is collected.

1 7. In the case of authorizations signed for the purpose of collecting
2 information in connection with an application for an insurance policy, a
3 policy reinstatement or a request for change in policy benefits, specifies
4 the length of time the authorization remains valid. The length of time shall
5 be no longer than:

6 (a) Thirty months from the date the authorization is signed if the
7 application or request involves life, health or disability insurance.

8 (b) One year from the date the authorization is signed if the
9 application or request involves property or casualty insurance.

10 8. In the case of authorizations signed for the purpose of collecting
11 information in connection with a claim for benefits under an insurance
12 policy, specifies the length of time the authorization remains valid. The
13 length of time shall be no longer than:

14 (a) The term of coverage of the policy if the claim is for a health
15 insurance benefit.

16 (b) The duration of the claim if the claim is not for a health
17 insurance benefit.

18 9. Advises the individual or a person authorized to act on behalf of
19 the individual that the individual or the individual's authorized
20 representative is entitled to receive a copy of the authorization form.

21 Sec. 30. Section 20-2107, Arizona Revised Statutes, is amended to
22 read:

23 20-2107. Investigative consumer reports

24 A. No insurance institution, agent INSURANCE PRODUCER or insurance
25 support organization may prepare or request an investigative consumer report
26 about an individual in connection with an insurance transaction involving an
27 application for insurance, a policy renewal, a policy reinstatement or a
28 change in insurance benefits unless the insurance institution or agent
29 INSURANCE PRODUCER informs the individual that the individual may request to
30 be interviewed in connection with the preparation of the investigative
31 consumer report and that upon a request pursuant to section 20-2108 the
32 individual is entitled to receive a copy of the investigative consumer
33 report.

34 B. If an investigative consumer report is to be prepared by an
35 insurance institution or agent INSURANCE PRODUCER, the insurance institution
36 or agent INSURANCE PRODUCER shall institute reasonable procedures to conduct
37 a personal interview requested by an individual.

38 C. If an investigative consumer report is to be prepared by an
39 insurance support organization, the insurance institution or agent INSURANCE
40 PRODUCER desiring the report shall inform the insurance support organization
41 whether a personal interview has been requested by the individual. The
42 insurance support organization shall institute reasonable procedures to
43 conduct the interview, if requested.

1 Sec. 31. Section 20-2108, Arizona Revised Statutes, is amended to
2 read:

3 20-2108. Access to recorded personal information; definition

4 A. If any individual, after proper identification, submits a written
5 request to an insurance institution, agent INSURANCE PRODUCER or insurance
6 support organization for access to recorded personal information about the
7 individual which is reasonably described by the individual and which the
8 insurance institution, agent INSURANCE PRODUCER or insurance support
9 organization can reasonably locate and retrieve the insurance institution,
10 agent INSURANCE PRODUCER or insurance support organization shall within
11 thirty business days from the date the request is received:

12 1. Inform the individual of the nature and substance of the recorded
13 personal information in writing, by telephone or by other oral communication,
14 whichever the insurance institution, agent INSURANCE PRODUCER or insurance
15 support organization prefers.

16 2. Permit the individual to see and copy, in person, the recorded
17 personal information pertaining to the individual or to obtain a copy of the
18 recorded personal information by mail, whichever the individual prefers,
19 unless the recorded personal information is in coded form, in which case the
20 insurance institution, agent INSURANCE PRODUCER or insurance support
21 organization shall provide an accurate translation in plain language and in
22 writing.

23 3. Disclose to the individual the identity, if recorded, of those
24 persons to whom the insurance institution, agent INSURANCE PRODUCER or
25 insurance support organization has disclosed the personal information within
26 two years prior to the request, and if the identity is not recorded, the
27 names of those insurance institutions, agents INSURANCE PRODUCERS, insurance
28 support organizations or other persons to whom the information is normally
29 disclosed.

30 4. Provide the individual with a summary of the procedures by which
31 the individual may request correction, amendment or deletion of recorded
32 personal information.

33 B. Any personal information provided pursuant to subsection A of this
34 section shall identify the source of the information if the source is an
35 institutional source.

36 C. Medical record information supplied by a medical care institution
37 or medical professional and requested under subsection A of this section,
38 together with the identity of the medical professional or medical care
39 institution which provided the information, shall be supplied either directly
40 to the individual or to a medical professional designated by the individual
41 and licensed to provide medical care with respect to the condition to which
42 the information relates, whichever the insurance institution, agent INSURANCE
43 PRODUCER or insurance support organization prefers. If it elects to disclose
44 the information to a medical professional designated by the individual, the
45 insurance institution, agent INSURANCE PRODUCER or insurance support

1 organization shall notify the individual, at the time of the disclosure, that
2 it has provided the information to the medical professional.

3 D. Except for personal information provided under section 20-2109, an
4 insurance institution, agent INSURANCE PRODUCER or insurance support
5 organization may charge a reasonable fee to cover the costs incurred in
6 providing a copy of recorded personal information to individuals.

7 E. The obligations imposed by this section upon an insurance
8 institution or agent INSURANCE PRODUCER may be satisfied by another insurance
9 institution or agent INSURANCE PRODUCER authorized to act on its
10 behalf. With respect to the copying and disclosure of recorded personal
11 information pursuant to a request under subsection A of this section, an
12 insurance institution, agent INSURANCE PRODUCER or insurance support
13 organization may make arrangements with an insurance support organization or
14 a consumer reporting agency to copy and disclose recorded personal
15 information on its behalf.

16 F. The rights granted to individuals in this section extend to all
17 natural persons to the extent information about them is collected and
18 maintained by an insurance institution, agent INSURANCE PRODUCER or insurance
19 support organization in connection with an insurance transaction. The rights
20 granted to all natural persons by this subsection do not extend to
21 information about them that relates to and is collected in connection with
22 or in reasonable anticipation of a claim or civil or criminal proceeding
23 involving them.

24 G. For the purposes of this section, "insurance support organization"
25 does not include a consumer reporting agency.

26 Sec. 32. Section 20-2109, Arizona Revised Statutes, is amended to
27 read:

28 20-2109. Correction, amendment or deletion of recorded personal
29 information; definition

30 A. Within thirty business days from the date of receipt of a written
31 request from an individual to correct, amend or delete any recorded personal
32 information about the individual within its possession, an insurance
33 institution, agent INSURANCE PRODUCER or insurance support organization shall
34 either:

35 1. Correct, amend or delete the portion of the recorded personal
36 information in dispute.

37 2. Notify the individual of its refusal to make the correction,
38 amendment or deletion, the reasons for the refusal and the individual's right
39 to file a statement as provided in subsection C.

40 B. If the insurance institution, agent INSURANCE PRODUCER or insurance
41 support organization corrects, amends or deletes recorded personal
42 information, the insurance institution, agent INSURANCE PRODUCER or insurance
43 support organization shall so notify the individual in writing and furnish
44 the correction, amendment or fact of deletion to the following, as
45 applicable:

1 1. Any person specifically designated by the individual who may have,
2 within the preceding two years, received the recorded personal information.

3 2. Any insurance support organization whose primary source of personal
4 information is insurance institutions if the insurance support organization
5 has systematically received the recorded personal information from the
6 insurance institution within the preceding seven years, except that the
7 correction, amendment or fact of deletion need not be furnished if the
8 insurance support organization no longer maintains recorded personal
9 information about the individual.

10 3. Any insurance support organization that furnished the personal
11 information that has been corrected, amended or deleted.

12 C. If an individual disagrees with an insurance institution's, ~~agent's~~
13 INSURANCE PRODUCER'S or insurance support organization's refusal to correct,
14 amend or delete recorded personal information, the individual may file with
15 the insurance institution, ~~agent~~ INSURANCE PRODUCER or insurance support
16 organization a concise statement setting forth what the individual thinks is
17 the correct, relevant or fair information and a concise statement of the
18 reasons why the individual disagrees with the insurance institution's,
19 ~~agent's~~ INSURANCE PRODUCER'S or insurance support organization's refusal to
20 correct, amend or delete recorded personal information.

21 D. If the individual files either statement as described in subsection
22 C, the insurance institution, ~~agent~~ INSURANCE PRODUCER or support
23 organization shall:

24 1. File the statement with the disputed personal information and
25 provide a means by which anyone reviewing the disputed personal information
26 will be made aware of the individual's statement and have access to it.

27 2. In any subsequent disclosure by the insurance institution, ~~agent~~
28 INSURANCE PRODUCER or insurance support organization of the recorded personal
29 information that is the subject of disagreement, clearly identify the matter
30 in dispute and provide the individual's statement along with the recorded
31 personal information being disclosed.

32 3. Furnish the statement to the persons and in the manner prescribed
33 in subsection B.

34 E. The rights granted to individuals in this section extend to all
35 natural persons to the extent information about them is collected and
36 maintained by an insurance institution, ~~agent~~ INSURANCE PRODUCER or insurance
37 support organization in connection with an insurance transaction. The rights
38 granted to all natural persons by this subsection SECTION do not extend to
39 information about them that relates to and is collected in connection with
40 or in reasonable anticipation of a claim or civil or criminal proceeding
41 involving them.

42 F. For purposes of this section, "insurance support organization" does
43 not include a consumer reporting agency.

1 Sec. 33. Section 20-2110, Arizona Revised Statutes, is amended to
2 read:

3 20-2110. Reasons for adverse underwriting decisions

4 A. In the event of an adverse underwriting decision the insurance
5 institution or agent INSURANCE PRODUCER responsible for the decision shall
6 either provide the applicant, policyholder or individual proposed for
7 coverage with the specific reason for the adverse underwriting decision in
8 writing or advise the person that upon written request the person may receive
9 the specific reason in writing and provide the applicant, policyholder or
10 individual proposed for coverage with a summary of the rights established
11 under subsection B of this section and sections 20-2108 and 20-2109.

12 B. Upon receipt of a written request within ninety business days from
13 the date of the mailing of notice or other communication of an adverse
14 underwriting decision to an applicant, policyholder or individual proposed
15 for coverage, the insurance institution or agent INSURANCE PRODUCER shall
16 furnish to the person within twenty-one business days from the date of
17 receipt of the written request:

18 1. The specific reason for the adverse underwriting decision, in
19 writing, if the information was not initially furnished in writing pursuant
20 to subsection A of this section.

21 2. The specific items of personal and privileged information that
22 support those reasons except that:

23 (a) The insurance institution or agent INSURANCE PRODUCER is not
24 required to furnish specific items of privileged information if it has a
25 reasonable suspicion, based upon specific information available for review
26 by the director, that the applicant, policyholder or individual proposed for
27 coverage has engaged in criminal activity, fraud, material misrepresentation
28 or material nondisclosure.

29 (b) Specific items of medical record information supplied by a medical
30 care institution or medical professional shall be disclosed either directly
31 to the individual about whom the information relates or to a medical
32 professional designated by the individual and licensed to provide medical
33 care with respect to the condition to which the information relates, at the
34 option of the insurance institution or agent INSURANCE PRODUCER.

35 3. The names and addresses of the institutional sources that supplied
36 the specific items of information pursuant to paragraph 2 of this subsection,
37 except that the identity of any medical professional or medical care
38 institution shall be disclosed either directly to the individual or to the
39 designated medical professional, whichever the insurance institution or agent
40 INSURANCE PRODUCER prefers.

41 C. The obligations imposed by this section upon an insurance
42 institution or agent INSURANCE PRODUCER may be satisfied by another insurance
43 institution or agent INSURANCE PRODUCER authorized to act on its behalf.

1 D. If an adverse underwriting decision results solely from an oral
2 request or inquiry, the explanation of reasons and summary of rights required
3 by subsection A of this section may be given orally.

4 Sec. 34. Section 20-2111, Arizona Revised Statutes, is amended to
5 read:

6 20-2111. Information concerning previous adverse underwriting
7 decisions

8 An insurance institution, agent INSURANCE PRODUCER or insurance support
9 organization shall not seek information in connection with an insurance
10 transaction concerning any previous adverse underwriting decision experienced
11 by an individual or any previous insurance coverage obtained by an individual
12 through a residual market mechanism, unless the inquiry also requests the
13 reasons for any previous adverse underwriting decision or the reasons why
14 insurance coverage was previously obtained through a residual market
15 mechanism.

16 Sec. 35. Section 20-2112, Arizona Revised Statutes, is amended to
17 read:

18 20-2112. Previous adverse underwriting decisions

19 An insurance institution or agent INSURANCE PRODUCER shall not base an
20 adverse underwriting decision in whole or in part:

21 1. On the fact of a previous adverse underwriting decision or the fact
22 that an individual previously obtained insurance coverage through a residual
23 market mechanism, except that an insurance institution or agent INSURANCE
24 PRODUCER may base an adverse underwriting decision on further information
25 obtained from an insurance institution or agent INSURANCE PRODUCER
26 responsible for a previous adverse underwriting decision.

27 2. On personal information received from an insurance support
28 organization whose primary source of information is insurance institutions,
29 except that an insurance institution or agent INSURANCE PRODUCER may base an
30 adverse underwriting decision on further personal information obtained as the
31 result of information received from the insurance support organization.

32 Sec. 36. Section 20-2113, Arizona Revised Statutes, is amended to
33 read:

34 20-2113. Disclosure limitations and conditions

35 An insurance institution, agent INSURANCE PRODUCER or insurance support
36 organization shall not disclose any personal or privileged information about
37 an individual collected or received in connection with an insurance
38 transaction unless the disclosure is:

39 1. With the written authorization of the individual except that:

40 (a) If the authorization is submitted by another insurance
41 institution, agent INSURANCE PRODUCER or insurance support organization, the
42 authorization shall meet the requirements prescribed in section 20-2106.

43 (b) If the authorization is submitted by a person other than an
44 insurance institution, agent INSURANCE PRODUCER or insurance support
45 organization, the authorization shall be dated, signed by the individual and

1 obtained one year or less prior to the date a disclosure is sought pursuant
2 to this section.

3 2. To a person other than an insurance institution, agent INSURANCE
4 PRODUCER or insurance support organization, if the disclosure is reasonably
5 necessary:

6 (a) To enable the person to perform a business, professional or
7 insurance function for the disclosing insurance institution, agent INSURANCE
8 PRODUCER or insurance support organization and the person agrees not to
9 disclose the information further without the individual's written
10 authorization unless the further disclosure either:

11 (i) Would otherwise be permitted by this section if made by an
12 insurance institution, agent INSURANCE PRODUCER or insurance support
13 organization.

14 (ii) Is reasonably necessary for the person to perform his THE
15 INDIVIDUAL'S function for the disclosing insurance institution, agent
16 INSURANCE PRODUCER or insurance support organization.

17 (b) To enable the person to provide information to the disclosing
18 insurance institution, agent INSURANCE PRODUCER or insurance support
19 organization for the purpose of determining an individual's eligibility for
20 an insurance benefit or payment or detecting or preventing criminal activity,
21 fraud, material misrepresentation or material nondisclosure in connection
22 with an insurance transaction.

23 3. To an insurance institution, agent INSURANCE PRODUCER, insurance
24 support organization or self-insurer if the information disclosed is limited
25 to that which is reasonably necessary to detect or prevent criminal activity,
26 fraud, material misrepresentation or material nondisclosure in connection
27 with insurance transactions or for either the disclosing or receiving
28 insurance institution, agent INSURANCE PRODUCER or insurance support
29 organization to perform its function in connection with an insurance
30 transaction involving the individual.

31 4. To a medical care institution or medical professional for the
32 purpose of verifying insurance coverage or benefits, informing an individual
33 of a medical problem of which the individual may not be aware or conducting
34 an operations or service audit, if only the information which is reasonably
35 necessary to accomplish the purposes prescribed by this paragraph is
36 disclosed.

37 5. To an insurance regulatory authority.

38 6. To a law enforcement or other governmental authority to protect the
39 interests of the insurance institution, agent INSURANCE PRODUCER or insurance
40 support organization in preventing or prosecuting the perpetration of fraud
41 upon it, or if the insurance institution, agent INSURANCE PRODUCER or
42 insurance support organization reasonably believes that illegal activities
43 have been conducted by the individual.

44 7. Otherwise permitted or required by law.

1 8. In response to a valid administrative or judicial order, including
2 a search warrant or subpoena.

3 9. Made for the purpose of conducting actuarial or research studies,
4 except that no individual may be identified in any actuarial or research
5 report, materials allowing the individual to be identified shall be returned
6 or destroyed as soon as they are no longer needed and the actuarial or
7 research organization shall agree not to disclose the information unless the
8 disclosure would otherwise be permitted by this section if made by an
9 insurance institution, agent INSURANCE PRODUCER or insurance support
10 organization.

11 10. To a party or a representative of a party to a proposed or
12 consummated sale, transfer, merger or consolidation of all or part of the
13 business of the insurance institution, agent INSURANCE PRODUCER or insurance
14 support organization, except that prior to the consummation of the sale,
15 transfer, merger or consolidation only the information is disclosed which is
16 reasonably necessary to enable the recipient to make business decisions about
17 the purchase, transfer, merger or consolidation and the recipient agrees not
18 to disclose the information unless the disclosure would otherwise be
19 permitted by this section if made by an insurance institution, agent
20 INSURANCE PRODUCER or insurance support organization.

21 11. To a person whose only use of the information will be in connection
22 with the marketing of a product or service if:

23 (a) No medical record information, privileged information or personal
24 information relating to an individual's character, personal habits, mode of
25 living or general reputation is disclosed and no classification derived from
26 the information is disclosed.

27 (b) The individual has been given an opportunity to indicate that the
28 individual does not want personal information disclosed for marketing
29 purposes and has given no indication that the individual does not want the
30 information disclosed.

31 (c) The person receiving the information agrees not to use it except
32 in connection with the marketing of a product or service.

33 12. To an affiliate whose only use of the information will be in
34 connection with an audit of the insurance institution or agent INSURANCE
35 PRODUCER or the marketing of an insurance or financial product or service,
36 if the affiliate agrees not to disclose the information for any other purpose
37 or to an unaffiliated person, except that no medical record information may
38 be disclosed for marketing purposes without the individual's written consent.

39 13. By a consumer reporting agency if the disclosure is to a person
40 other than an insurance institution or agent INSURANCE PRODUCER.

41 14. To a group insurance policyholder for the purpose of reporting
42 claims experience or conducting an audit of the insurance institution's or
43 agent's INSURANCE PRODUCER'S operations or services if the information
44 disclosed is reasonably necessary for the recipient to conduct the review or
45 audit.

1 15. To a professional peer review organization for the purpose of
2 reviewing the service or conduct of a medical care institution or medical
3 professional.

4 16. To a governmental authority for the purpose of determining the
5 individual's eligibility for health benefits for which the governmental
6 authority may be liable.

7 17. To a certificate holder or policyholder for the purpose of
8 providing information regarding the status of an insurance transaction.

9 Sec. 37. Section 20-2114, Arizona Revised Statutes, is amended to
10 read:

11 20-2114. Director; powers

12 A. The director may examine and investigate the affairs of every
13 insurance institution or agent INSURANCE PRODUCER doing business in this
14 state to determine whether the insurance institution or agent INSURANCE
15 PRODUCER has been or is engaged in any conduct in violation of this chapter.

16 B. The director may examine and investigate the affairs of every
17 insurance support organization acting on behalf of an insurance institution
18 or agent INSURANCE PRODUCER which either transacts business in this state or
19 transacts business outside this state that has an effect on a person residing
20 in this state in order to determine whether the insurance support
21 organization has been or is engaged in any conduct in violation of this
22 chapter.

23 Sec. 38. Section 20-2116, Arizona Revised Statutes, is amended to
24 read:

25 20-2116. Cease and desist order and reports

26 If, after a hearing, the director determines that the insurance
27 institution, agent INSURANCE PRODUCER or insurance support organization
28 charged has engaged in conduct or practices in violation of this chapter, the
29 director shall put his THE DIRECTOR'S findings in writing and shall issue and
30 cause to be served upon the insurance institution, agent INSURANCE PRODUCER
31 or insurance support organization a copy of the findings and an order
32 requiring the insurance institution, agent INSURANCE PRODUCER or insurance
33 support organization to cease and desist from the conduct or practices
34 constituting a violation of this chapter.

35 Sec. 39. Section 20-2118, Arizona Revised Statutes, is amended to
36 read:

37 20-2118. Individual remedies

38 A. If any insurance institution, agent INSURANCE PRODUCER or insurance
39 support organization fails to comply with the rights granted under sections
40 20-2108 through 20-2110, any person whose rights are violated may apply to
41 the superior court of this state, or any other court of competent
42 jurisdiction, for appropriate equitable relief.

43 B. An insurance institution, agent INSURANCE PRODUCER or insurance
44 support organization which discloses information in violation of section
45 20-2113 is liable for damages sustained by the individual about whom the

1 information relates, except that no individual is entitled to a monetary
2 award which exceeds the actual damages sustained by the individual as a
3 result of a violation of section 20-2113.

4 C. In any action brought pursuant to this section, the court may award
5 the cost of the action and reasonable attorney fees to the prevailing party.

6 D. An action under this section must be brought within two years from
7 the date the alleged violation is or should have been discovered.

8 E. Except as specifically provided in this section, there is no remedy
9 or recovery available to individuals, in law or in equity, for a violation
10 of this chapter.

11 Sec. 40. Section 20-2119, Arizona Revised Statutes, is amended to
12 read:

13 20-2119. Immunity

14 No claim for relief in the nature of defamation, invasion of privacy
15 or negligency may arise against any person for disclosing personal or
16 privileged information according to this chapter nor may such a claim for
17 relief arise against any person for furnishing personal or privileged
18 information according to this chapter to an insurance institution, agent
19 INSURANCE PRODUCER or insurance support organization, except that this
20 section provides no immunity for disclosing or furnishing false information
21 with malice or wilful intent to injure any person.

22 Sec. 41. Section 20-2313, Arizona Revised Statutes, is amended to
23 read:

24 20-2313. Marketing practices

25 A. An accountable health plan or its ~~agent or broker~~ INSURANCE
26 PRODUCER shall not:

27 1. Discourage an employer from filing an application for a health
28 benefits plan because of the health status-related factors, industry,
29 occupation or geographic location of the employer.

30 2. Encourage or direct an employer to seek a health benefits plan from
31 another insurer because of the health status-related factors, industry,
32 occupation or geographic location of the employer.

33 B. This section does not prohibit an accountable health plan from
34 providing information regarding the geographic service area of the
35 accountable health plan.

36 C. Notwithstanding any law to the contrary, an accountable health plan
37 may market health benefits plans to groups of small employers from the same
38 or different industries that elect to pool their risks on a voluntary basis.

39 Sec. 42. Section 20-2403, Arizona Revised Statutes, is amended to
40 read:

41 20-2403. Risk retention groups not chartered and licensed in
42 this state

43 A. Before offering insurance in this state, a risk retention group
44 shall submit to the director all of the following:

1 1. Provide Evidence that the group meets the criteria of a risk
2 retention group as defined in section 20-2401, paragraph 10.

3 2. A statement identifying the state or states in which the risk
4 retention group is chartered and licensed as a liability insurance company,
5 the date of chartering and its principal place of business.

6 3. A copy of its plan of operations or a feasibility study and
7 revisions of the plan or study submitted to its state of domicile.

8 4. A statement of registration which designates the director as its
9 agent for the purpose of receiving service of legal documents or
10 process. The director shall determine the filing fee for the statement of
11 registration.

12 B. A risk retention group doing business in this state shall submit
13 to the director all of the following:

14 1. A copy of the group's financial statement submitted to the state
15 in which the risk retention group is chartered and licensed, which is
16 certified by an independent public accountant and contains a statement of
17 opinion on loss and loss adjustment expense reserves made by a member of the
18 American academy of actuaries or a qualified loss reserve specialist under
19 criteria established by the director.

20 2. A copy of each examination of the risk retention group as certified
21 by the director or public official conducting the examination.

22 3. On request by the director, a copy of any audit performed with
23 respect to the risk retention group.

24 4. Information required to verify it continues to meet the criteria
25 as a risk retention group under section 20-2401, paragraph 10.

26 C. Each risk retention group is liable for the payment of premium
27 taxes and taxes on premiums of direct business for risks resident or located
28 in this state and shall report to the director the net premiums written for
29 risks resident or located in this state. The risk retention group is subject
30 to taxation and any applicable fines and penalties related to the taxation
31 on the same basis as a foreign admitted insurer. To the extent licensed
32 ~~agents or brokers~~ INSURANCE PRODUCERS are used pursuant to this chapter, they
33 shall report to the director the premiums for direct business for risks
34 resident or located in this state which the licensees have placed with or on
35 behalf of a risk retention group which is not chartered and licensed in this
36 state. To the extent that insurance ~~agents or brokers~~ PRODUCERS are used
37 pursuant to this chapter, the ~~agent or broker~~ INSURANCE PRODUCER shall keep
38 a complete and separate record of all policies procured from each risk
39 retention group. The record shall be open to examination by the
40 director. These records, for each policy and each kind of insurance provided
41 under each policy, shall include all of the following:

42 1. The limit of liability.

43 2. The time period covered.

44 3. The effective date.

45 4. The name of the risk retention group which issued the policy.

1 5. The gross premium charged.

2 6. The amount of return premium, if any.

3 D. A risk retention group and its agents and representatives shall
4 comply with section 20-461 pertaining to unfair claims settlement practices.

5 E. A risk retention group shall comply with chapter 2, article 6 of
6 this title. However, if the director seeks an injunction regarding such
7 conduct, the injunction shall be obtained from a court of competent
8 jurisdiction.

9 F. A risk retention group shall submit to an examination by the
10 director to determine its financial condition if the director of the
11 jurisdiction in which the group is chartered and licensed has not initiated
12 an examination or does not initiate an examination within sixty days after
13 a request by the director of this state. Any examination shall be
14 coordinated to avoid unjustified repetition and conducted in an expeditious
15 manner and in accordance with rules established by the director.

16 G. A policy issued by a risk retention group shall contain in ten
17 point type on the front page and the declaration page the following notice:

18 Notice

19 This policy is issued by your risk retention group. Your risk
20 retention group may not be subject to all of the insurance laws
21 and regulations of your state. State insurance insolvency
22 guaranty funds are not available for your risk retention group.

23 H. The following acts by a risk retention group are prohibited:

24 1. The solicitation or sale of insurance by a risk retention group to
25 a person who is not eligible for membership in the group.

26 2. The solicitation or sale of insurance by, or operation of, a risk
27 retention group that is in a hazardous financial condition or is financially
28 impaired.

29 I. No risk retention group may do business in this state if an
30 insurance company is directly or indirectly a member or owner of the risk
31 retention group, other than a risk retention group whose members are
32 insurance companies.

33 J. A risk retention group which is not chartered and licensed in this
34 state and is doing business in this state must comply with a lawful order
35 issued in a voluntary dissolution proceeding or in a delinquency proceeding
36 commenced by a state insurance director if there has been a finding of
37 financial impairment after an examination under subsection F of this section.

38 K. The director, in establishing criteria for loss and loss adjustment
39 reserves under subsection B, paragraph 1 of this section and in conducting
40 examinations under subsection F of this section, for purposes of uniformity,
41 shall consider any nationally adopted criteria or procedure.

42 L. In addition to complying with the requirements of this section
43 applicable to risk retention groups doing business in this state, any risk
44 retention group operating in this state before the ~~effective date of this~~

1 chapter AUGUST 18, 1987 shall comply with subsection A of this section within
2 thirty days after the effective date of this chapter AUGUST 18, 1987.

3 M. A risk retention group which violates any provision of this chapter
4 is subject to fines and penalties applicable to licensed insurers generally,
5 including revocation of its license or the right to do business in this
6 state.

7 Sec. 43. Section 20-2408, Arizona Revised Statutes, is amended to
8 read:

9 20-2408. Restrictions on insurance purchased by purchasing
10 groups

11 A. A purchasing group may not purchase insurance from a risk retention
12 group that is not chartered in a state or from an insurer which is not
13 admitted in the state in which the purchasing group is located, unless the
14 purchase is effected through a licensed agent or broker INSURANCE PRODUCER.

15 B. No purchasing group may offer insurance policy coverage prohibited
16 by this title or declared unlawful by the highest SUPREME court of this
17 state.

18 C. A purchasing group which obtains liability insurance from an
19 insurer that is not admitted in this state or a risk retention group shall
20 inform each of the members of the group which have a risk resident or located
21 in this state that the risk is not protected by an insurance insolvency
22 guaranty fund in this state and that the risk retention group or the insurer
23 may not be subject to all insurance laws and rules of this state.

24 Sec. 44. Section 20-2411, Arizona Revised Statutes, is amended to
25 read:

26 20-2411. Duty of insurance producer to obtain license

27 A. No person, firm, association or corporation may act or aid in any
28 manner in soliciting, negotiating or procuring liability insurance in this
29 state from a risk retention group unless the person, firm, association or
30 corporation is licensed as an insurance agent or broker PRODUCER in
31 accordance with this title.

32 B. No person, firm, association or corporation may act or aid in any
33 manner in soliciting, negotiating or procuring liability insurance in this
34 state for a purchasing group or any of its members from an authorized insurer
35 or a risk retention group chartered in a state unless the person, firm,
36 association or corporation is licensed as an insurance agent or broker
37 PRODUCER in accordance with this title.

38 C. No person, firm, association or corporation may act or aid in any
39 manner in soliciting, negotiating or procuring liability insurance from an
40 insurer that is not authorized to do business in this state on behalf of a
41 purchasing group which is located in this state unless the person, firm,
42 association or corporation is licensed as a surplus lines agent BROKER or
43 excess line broker in accordance with this title.

44 D. For purposes of acting as an agent or broker INSURANCE PRODUCER OR
45 SURPLUS LINES BROKER for a risk retention group or purchasing group pursuant

1 to subsections A, B and C of this section, the requirement of residence in
2 this state does not apply.

3 E. Every person, firm, association or corporation that is licensed
4 pursuant to this title, on business placed with risk retention groups or
5 written through a purchasing group, shall inform each prospective insured of
6 the provisions of the notice required by section 20-2403, subsection G in the
7 case of a risk retention group and section 20-2408, subsection C in the case
8 of a purchasing group.

9 Sec. 45. Section 20-2601, Arizona Revised Statutes, is amended to
10 read:

11 20-2601. Definitions

12 In this chapter, unless the context otherwise requires:

13 1. "Affiliate" means a person who directly or indirectly controls, is
14 controlled by or is under common control with an insurer, a person who for
15 a specific fee or commission regularly furnishes investment advice to an
16 insurer with respect to the insurer's separate accounts or a director,
17 officer, partner or employee or a member of the immediate family of a
18 director, officer, partner or employee of an insurer, controlling or
19 controlled person or person providing investment advice.

20 ~~2. "Agent" means any person, corporation, partnership or other legal~~
21 ~~entity that is licensed by this state as a life insurance agent.~~

22 ~~3.~~ 2. "Assumed investment rate" means the rate of investment return
23 that is required to be credited to a variable life insurance policy, after
24 the deduction of charges for taxes, investment expenses and mortality and
25 expense guarantees, to maintain the variable death benefit in an amount that
26 is equal at all times to the amount of the death benefit, other than
27 incidental insurance benefits, that would be payable under the plan of
28 insurance if the death benefit did not vary according to the investment
29 experience of the separate account.

30 ~~4.~~ 3. "Benefit base" means the amount to which the net investment
31 return is applied.

32 ~~5.~~ 4. "Control" or "controlling" has the same meaning prescribed for
33 the terms in section 20-481 and includes the terms "controlled by" and "under
34 common control with".

35 ~~6.~~ 5. "Flexible premium policy" means a variable life insurance
36 policy other than a scheduled premium policy.

37 ~~7.~~ 6. "General account" means all of the assets of an insurer other
38 than assets in separate accounts established pursuant to section 20-651 or
39 the insurance laws of the insurer's state of domicile if the insurer is a
40 foreign or alien insurer.

41 ~~8.~~ 7. "Incidental insurance benefit" means all of the insurance
42 benefits in a variable life insurance policy except the variable death
43 benefit and the minimum death benefit. Incidental insurance benefit includes
44 accidental death and dismemberment benefits, disability benefits, guaranteed
45 insurability options, family income or term riders.

1 8. "INSURANCE PRODUCER" MEANS ANY PERSON, CORPORATION, PARTNERSHIP,
2 OR OTHER LEGAL ENTITY THAT IS LICENSED BY THIS STATE AS A LIFE INSURANCE
3 PRODUCER.

4 9. "Minimum death benefit" means the amount of the guaranteed death
5 benefit, except incidental insurance benefits, that is payable under a
6 variable life insurance policy regardless of the investment performance of
7 the separate account.

8 10. "Net investment return" means the rate of investment return in a
9 separate account that is applied to the benefit base.

10 11. "Policy processing day" means the day on which the charges that are
11 authorized in a policy are deducted from the policy's cash value.

12 12. "Scheduled premium policy" means a variable life insurance policy
13 under which both the amount and timing of premium payments are fixed by the
14 insurer.

15 13. "Separate account" means a separate account established pursuant
16 to section 20-651 or the insurance laws of the insurer's state of domicile
17 if the insurer is a foreign or alien insurer.

18 14. "Variable death benefit" means the amount of the death benefit,
19 except incidental insurance benefits, that is payable under a variable life
20 insurance policy, that is dependent on the investment performance of the
21 separate account and that the insurer must pay in the absence of any minimum
22 death benefit.

23 15. "Variable life insurance policy" means an individual policy that
24 provides for life insurance, the amount or duration of which varies according
25 to the investment experience of any separate account or accounts that are
26 established and maintained by the insurer pursuant to section 20-651 or the
27 insurance laws of the insurer's state of domicile if the insurer is a foreign
28 or alien insurer.

29 Sec. 46. Section 20-2602, Arizona Revised Statutes, is amended to
30 read:

31 20-2602. Requirements applicable to insurers issuing variable
32 life insurance

33 A. An insurer shall not deliver or issue for delivery in this state
34 a variable life insurance policy unless all of the following apply:

35 1. The insurer is licensed to transact life insurance business in this
36 state.

37 2. The director gives written approval to the insurer for the issuance
38 of variable life insurance policies in this state. The director shall grant
39 the written approval only after finding that:

40 (a) The plan of operation for the issuance of variable life insurance
41 policies is not unsound.

42 (b) The general character, reputation and experience of the management
43 and those persons or firms that the insurer proposes to supply consulting,
44 investment, administrative or custodial services to the insurer will

1 reasonably result in the competent operation of the variable life insurance
2 business of the insurer in this state.

3 (c) The financial condition of the insurer and its method of operation
4 in connection with the issuance of variable life policies is not likely to
5 harm the public or its policyholders in this state. The director shall
6 consider at least the following:

7 (i) The insurer's history of operation and financial condition.

8 (ii) The qualifications, fitness, character, responsibility,
9 reputation and experience of the officers, directors and other management
10 personnel of the insurer and of those persons or firms that the insurer
11 proposes to supply consulting, investment, administrative or custodial
12 services to the insurer.

13 (iii) The applicable law under which the insurer is authorized in its
14 state of domicile to issue variable life insurance policies. The state of
15 entry of an alien insurer is deemed to be its state of domicile.

16 (iv) If the insurer is a subsidiary of or is affiliated by common
17 management or ownership with another company, the insurer's relationship to
18 the other company and the degree to which the requesting insurer and the
19 other company meet these standards.

20 B. Before delivering or issuing for delivery in this state a variable
21 life insurance policy, an insurer shall file the following information with
22 the director:

23 1. Copies and a general description of the variable life insurance
24 policies the insurer intends to issue.

25 2. A general description of the insurer's methods of operation of the
26 variable life insurance business, including the methods of policy
27 distribution and the names of those persons or firms that the insurer
28 proposes to supply consulting, investment, administrative, custodial or
29 distribution services to the insurer.

30 3. With respect to a separate account that the insurer maintains for
31 any variable life insurance policy, a statement of the investment policy that
32 the issuer intends to follow for the investment of the assets that are held
33 in the separate account and a statement of the procedures for changing the
34 investment policy. The statement of investment policy shall include a
35 description of the investment objectives that are intended for the separate
36 account.

37 4. A description of any contemplated investment advisory services that
38 satisfies section 20-2606, subsection L.

39 5. A copy of the statutes and rules of the insurer's state of domicile
40 under which the insurer is authorized to issue variable life insurance
41 policies, unless the insurer is domiciled in this state.

42 6. A completed national association of insurance commissioners'
43 uniform biographical data form for the officers and directors of the insurer.

1 7. A statement that is completed by the insurer's actuary and that
2 describes the mortality and expense risks that the insurer will bear under
3 the policy.

4 8. A statement that describes the method of computation of cash values
5 and other nonforfeiture benefits if not described in the policy.

6 C. Each insurer that seeks to enter into the variable life insurance
7 business in this state shall establish and maintain a written statement and
8 shall specify in the statement the standards of suitability the insurer will
9 use. The standards of suitability shall specify the following:

10 1. That an insurer shall not make a recommendation to an applicant to
11 purchase a variable life insurance policy.

12 2. That a variable life insurance policy shall not be issued if after
13 the agent INSURANCE PRODUCER making the recommendation or the insurer
14 considers the applicant's insurance and investment objectives, financial
15 situation and needs and any other information known to the insurer or the
16 agent INSURANCE PRODUCER, the insurer or agent INSURANCE PRODUCER determines
17 that the purchase of the policy is unsuitable for the applicant.

18 D. An insurer authorized to transact variable life insurance business
19 in this state shall not use any sales material, advertising material,
20 descriptive literature or other material of any kind in connection with its
21 variable life insurance business in this state that is false, misleading,
22 deceptive or inaccurate. Variable life insurance sales material, advertising
23 material and descriptive literature are subject to section 20-1110,
24 subsection E.

25 E. A material contract that is entered into between an insurer and a
26 supplier of consulting, investment, administrative, sales, marketing,
27 custodial or other services with respect to variable life insurance
28 operations shall be in writing and shall state that on the director's request
29 the supplier of the services shall furnish to the director any information
30 or reports in connection with the services that would allow the director to
31 determine if the variable life insurance operations of the insurer are being
32 conducted in a manner that is consistent with this article.

33 Sec. 47. Section 20-2604, Arizona Revised Statutes, is amended to
34 read:

35 20-2604. Variable life insurance policy and filing requirements

36 A. Except pursuant to chapter 5, article 1 of this title, the director
37 shall not approve a variable life insurance form unless the insurer files
38 with the director its variable life insurance policies, and all riders,
39 endorsements, applications and other documents that are attached to the
40 policy and that relate to the variable nature of the policy, and the director
41 approves each policy before the policy is delivered or issued for delivery
42 in this state. For the purposes of this subsection the procedures and
43 requirements for the filing and approval of variable life insurance policies
44 shall be the same as the filing and approval procedures that apply to other

1 life insurance policies, to the extent those procedures are not inconsistent
2 with this article.

3 8. A variable life insurance policy that is delivered or issued for
4 delivery in this state shall comply with the following minimum requirements:

5 1. The insurer shall bear mortality and expense risks. The mortality
6 and expense charges are subject to the maximums stated in the policy.

7 2. For scheduled premium policies, the insurer shall provide a minimum
8 death benefit in an amount that equals or exceeds the initial face amount of
9 the policy as long as the insured pays the premiums.

10 3. The policy shall reflect the investment experience of one or more
11 separate accounts that are established and maintained by the insurer. The
12 insurer shall demonstrate that the reflection of investment experience in the
13 variable life insurance policy is actuarially sound.

14 4. Each variable life insurance policy shall be credited with the full
15 amount of the net investment return that is applied to the benefit base.

16 5. At least annually the insurer shall determine any changes in the
17 variable death benefits of each variable life insurance policy.

18 6. At least monthly the insurer shall determine the cash value of each
19 variable life insurance policy. The method of computation of cash values and
20 other nonforfeiture benefits shall be in accordance with actuarial procedures
21 that recognize the variable nature of the policy. If the net investment
22 return that is credited to the policy at all times from the date of issue is
23 equal to the assumed investment rate with premiums and benefits determined
24 accordingly under the terms of the policy, the resulting cash values shall
25 not be less than the minimum values that are required by section 20-1231 for
26 a general account policy with these premiums and benefits. The assumed
27 investment rate shall not exceed the maximum interest rate permitted under
28 section 20-1231. If the policy does not contain an assumed investment rate
29 the method of computation shall be based on the maximum interest rate
30 permitted under section 20-1231. The method of computation may disregard
31 incidental minimum guarantees as to the dollar amounts payable. For the
32 purposes of this paragraph incidental minimum guarantees include a guarantee
33 that the amount payable at death or maturity shall equal or exceed the amount
34 that otherwise would have been payable if the net investment return credited
35 to the policy at all times from the date of issue had been equal to the
36 assumed investment rate.

37 C. The insurer may base the computation of values that are required
38 for each variable life insurance policy on any reasonable and necessary
39 approximations that the director accepts.

40 D. Each variable life insurance policy that is filed for approval in
41 this state shall contain at least the following:

42 1. The cover page or a page that corresponds to the cover page of each
43 policy that:

1 (a) Prominently states in either a contrasting color or bold-faced
2 type that the amount or duration of the death benefit may be variable or
3 fixed under specified conditions.

4 (b) Prominently states in either a contrasting color or bold-faced
5 type that cash values may increase or decrease according to the experience
6 of the separate account, subject to any specified minimum guarantees.

7 (c) Describes any minimum death benefit that is required pursuant to
8 subsection B, paragraph 2 of this section.

9 (d) Describes the method or refers to the policy provision that
10 describes the method for determining the amount of insurance payable at
11 death.

12 (e) Informs the policyholder that the policyholder may return the
13 variable life insurance policy within ten days after receiving the policy and
14 receive a refund that equals the sum of:

15 (i) The difference between the premiums paid and the amounts allocated
16 to any separate accounts under the policy.

17 (ii) The value of the amounts that are allocated to any separate
18 accounts under the policy on the date the returned policy is received by the
19 insurer or the insurer's agent INSURANCE PRODUCER.

20 (f) Identifies the owner of the contract.

21 (g) Includes items that are required for fixed benefit life insurance
22 policies and that are not inconsistent with this article.

23 2. For scheduled premium policies, a grace period provision of not
24 less than thirty-one days from the premium due date. The grace period shall
25 provide that if the premium is paid within the grace period, the policy
26 values will be the same as if the premium had been paid on or before the due
27 date, except for the deduction of any overdue premium.

28 3. For flexible premium policies, a grace period provision that begins
29 on the policy processing day on which the total charges that are authorized
30 by the policy and that are necessary to keep the policy in force until the
31 next policy processing day exceed the amounts available under the policy to
32 pay the charges according to the terms of the policy. The grace period shall
33 end on a date not less than sixty-one days after the report to policyholders
34 is mailed pursuant to section 20-2609, paragraph 1. The death benefit that
35 is payable during the grace period shall equal the death benefit that was in
36 effect immediately before the grace period less any overdue charges. If the
37 policy processing days occur monthly, the insurer may require the payment of
38 not more than three times the charges that were due on the policy processing
39 day on which the amounts available under the policy were insufficient to pay
40 all of the charges that are authorized by the policy and that are necessary
41 to keep the policy in force until the next policy processing day.

42 4. For scheduled premium policies, a reinstatement provision that
43 states that the policy shall be reinstated at any time within two years from
44 the date of default on the occurrence of all of the following:

1 (a) The written application of the insured and on the presentation of
2 evidence of insurability, including good health, that is satisfactory to the
3 insurer, unless the cash surrender value has been paid or the period of
4 extended insurance has expired.

5 (b) The payment of any outstanding indebtedness that arose after the
6 end of the grace period following the date of default together with accrued
7 interest on the indebtedness to the date of reinstatement.

8 (c) Payment of an amount not exceeding the greater of:

9 (i) All overdue premiums with interest at a rate of not more than six
10 per cent per annum compounded annually and any indebtedness in effect at the
11 end of the grace period following the date of default with interest at a rate
12 of not more than six per cent per annum compounded annually.

13 (ii) One hundred ten per cent of the increase in cash value resulting
14 from reinstatement plus all overdue premiums for incidental insurance
15 benefits with interest at a rate of not more than six per cent per annum
16 compounded annually.

17 5. A full description of the benefit base, the method of calculation
18 and the application of any factors that are used to adjust variable benefits
19 under the policy.

20 6. A provision that designates the separate account to be used and
21 that states both of the following:

22 (a) The assets of the separate account are available to cover the
23 liabilities of the insurer's general account only to the extent that the
24 assets of the separate account exceed the liabilities of the separate account
25 arising under the variable life insurance policies supported by the separate
26 account.

27 (b) The assets of the separate account will be valued monthly or more
28 frequently if any policy benefits vary.

29 7. A provision that specifies what documents constitute the entire
30 insurance contract.

31 8. The names of the officers who are empowered to make an agreement
32 or representation on behalf of the insurer.

33 9. The conditions or requirements for the designation or change of
34 designation of a beneficiary and for the disbursement of benefits if a
35 beneficiary is not designated.

36 10. The conditions of or requirements for the assignment of the policy.

37 11. A description of policy value adjustments that will be made if the
38 insured misstates the insured's age or sex.

39 12. A provision that after a policy has been in force for two years the
40 insurer may not contest the policy during the lifetime of the insured. If
41 an increase in the amount of the policy's death benefits occurs after the
42 policy issue date, if the owner applied for or requested the increase and if
43 the increase was subject to satisfactory proof of the insured's insurability,
44 after the increase has been in force for two years, the insurer may not
45 contest the increase during the lifetime of the insured.

1 13. A statement that the investment policy of the separate account
2 shall not be changed without the approval of the insurance regulatory
3 authority of the insurer's state of domicile and that the approval is on file
4 with the director.

5 14. A provision that except if variable death benefits are used to pay
6 premiums the payment of variable death benefits in excess of any minimum
7 death benefits, cash values, policy loans or partial withdrawals or the
8 payment of variable death benefits in excess of any partial surrenders may
9 be deferred either:

10 (a) For up to six months from the date of the request, if the payments
11 are based on policy values that do not depend on the investment performance
12 of the separate account.

13 (b) For any period during which the New York stock exchange is closed
14 for trading, except for normal holiday closing, or for any period during
15 which the securities and exchange commission determines that a state of
16 emergency exists.

17 15. If settlement options are provided, that at least one option is
18 provided on a fixed basis only.

19 16. A description of the basis for computing the cash value and the
20 surrender value under the policy.

21 17. A statement of the premiums or other charges for incidental
22 insurance benefits.

23 18. Any other items that are currently required for fixed benefit life
24 insurance policies and that are not inconsistent with this article.

25 19. A provision for nonforfeiture insurance benefits. The insurer may
26 establish a reasonable minimum cash value below which any nonforfeiture
27 insurance options will not be available.

28 20. That statements that are made by the insured or on behalf of the
29 insured are representations and not warranties.

30 E. Except for term insurance policies and pure endowment policies that
31 are delivered or issued for delivery in this state, each variable life
32 insurance policy shall contain loan provisions for policies that have been
33 in force for two full years that are not less favorable to the policyholder
34 than the following:

35 1. At least seventy-five per cent of the policy's cash surrender value
36 may be borrowed.

37 2. The amount borrowed bears interest at a rate that does not exceed
38 the rate permitted by this title.

39 3. Any indebtedness shall be deducted from the proceeds payable on
40 death.

41 4. Any indebtedness shall be deducted from the cash surrender value
42 on surrender or in determining any nonforfeiture benefit.

43 5. For scheduled premium policies, if the indebtedness exceeds the
44 cash surrender value, the insurer shall give notice of its intent to cancel
45 the policy if the excess indebtedness is not repaid within thirty-one days

1 after the date on which the notice was mailed. For flexible premium
2 policies, if the total charges that are authorized by the policy and that are
3 necessary to keep the policy in force until the next following policy
4 processing day exceed the amounts available under the policy to pay the
5 charges, the insurer must send the policyholder a report containing the
6 information specified by section 20-2609, paragraph 3.

7 F. The policy may provide that, as long as the premiums are paid, if,
8 at any time, the variable death benefit is less than it would have been if
9 a loan or withdrawal had not been made, the policyholder may increase the
10 variable death benefit up to the amount it would have been if a loan or
11 withdrawal had not been made. The insured may increase the variable death
12 benefit by paying an amount that does not exceed one hundred ten per cent of
13 the corresponding increase in cash value and by furnishing any evidence of
14 insurability that the insurer requests.

15 G. The policy may specify a reasonable minimum amount that may be
16 borrowed at any time. The minimum does not apply to any automatic premium
17 loan provision.

18 H. If the policy is under an extended insurance nonforfeiture option,
19 a policy loan provision is not required.

20 I. Variable life insurance policyholders who exercise their rights
21 under policy loan provisions shall not be disadvantaged by the exercise of
22 those rights.

23 J. On the exercise of any policy loan provision, the amounts paid to
24 the policyholder shall be withdrawn from the separate account and shall be
25 returned to the separate account on repayment, except that a stock insurer
26 may provide the amounts for policy loans from the general account.

27 K. A variable life insurance policy or related form that is delivered
28 or issued for delivery in this state may:

29 1. Include an exclusion for suicide that occurs within two years of
30 the issue date of the policy. If the owner applies for an increase in death
31 benefits after the policy issue date, the policy may provide an exclusion for
32 suicide that occurs within two years of any increase in death benefits to the
33 extent of the increased death benefits only.

34 2. Offer incidental insurance benefits on a fixed or variable basis.

35 3. Offer to pay dividend amounts in cash. In addition, the policies
36 may offer the following dividend options:

37 (a) The amount of the dividend may be credited against premium
38 payments.

39 (b) The amount of the dividend may be applied to provide amounts of
40 additional fixed or variable benefit life insurance.

41 (c) The amount of the dividend may be deposited in the general account
42 at a specified minimum rate of interest.

43 (d) The amount of the dividend may be applied to provide paid-up
44 amounts of fixed benefit one year term insurance.

(e) The amount of the dividend may be deposited as a variable deposit in a separate account.

4. Allow the policyholder to elect in writing an automatic premium loan on a basis that is not less favorable than that required of policy loans under subsection E of this section. The policy may impose a restriction that no more than two consecutive premiums can be paid under the requirements of this paragraph.

5. Allow the policyholder to make partial withdrawals.

6. Include any other policy provision that the director approves.

Sec. 48. Section 20-2606, Arizona Revised Statutes, is amended to read:

20-2606. Separate accounts

A. A domestic insurer issuing variable life insurance contracts shall establish one or more separate accounts pursuant to section 20-651. The following apply to the establishment of separate accounts:

1. If no law governs the custody of separate account assets and if the insurer is not the custodian of the separate account assets, all contracts for the custody of the assets shall be in writing and the director may review and approve both the terms of a contract and the proposed custodian before the transfer of custody.

2. Without the director's prior written approval, the insurer shall not employ any person in connection with the handling of separate account assets who within the last ten years either:

(a) Was convicted of a felony or a misdemeanor offense involving embezzlement, fraudulent conversion, the misappropriation of funds or securities or a violation of 18 United States Code section 1341, 1342 or 1343.

(b) Was found to have violated or has acknowledged violating any law involving fraud, deceit or knowing misrepresentation.

3. All persons who have access to the cash, securities or other assets of any separate account established pursuant to this chapter shall be under bond in an amount of not less than the following amounts based on the combined assets of the insurer's separate accounts:

| <u>Combined assets</u> | | <u>Minimum amount of bond</u> |
|------------------------|----------------|---|
| Equal to or more than: | But less than: | |
| \$ 0 | \$ 100,000 | \$10,000 |
| 100,000 | 600,000 | \$10,000 plus 4% of assets over \$100,000 |
| 600,000 | 1,200,000 | \$30,000 plus 3 1/3% of assets over \$600,000 |
| 1,200,000 | 3,200,000 | \$50,000 plus 2 1/2% of assets over \$1,200,000 |
| 3,200,000 | 4,450,000 | \$100,000 plus 2% of assets over \$3,200,000 |

| | | | |
|----|---------------|---------------|-----------------------------|
| 1 | 4,450,000 | 6,450,000 | \$125,000 plus 1 1/4% of |
| 2 | | | assets over \$4,450,000 |
| 3 | 6,450,000 | 90,450,000 | \$150,000 plus 5/8% of |
| 4 | | | assets over \$6,450,000 |
| 5 | 90,450,000 | 350,450,000 | \$675,000 plus 3/8% of |
| 6 | | | assets over \$90,450,000 |
| 7 | 350,450,000 | 1,070,450,000 | \$1,650,000 plus 3/16% of |
| 8 | | | assets over \$350,450,000 |
| 9 | 1,070,450,000 | | \$3,000,000 plus 3/32% of |
| 10 | | | assets over \$1,070,450,000 |
| 11 | | | until the total of the |
| 12 | | | bonds equals \$5,000,000 |

13 4. The insurer shall value the assets of the separate accounts at
14 least monthly.

15 B. The insurer shall maintain in each separate account assets with a
16 value that is at least equal to the greater of the valuation reserves for the
17 variable portion of the variable life insurance policies or the benefit base
18 for the variable life insurance policies.

19 C. The following apply to investments by the separate account:

20 1. An insurer or any of its affiliates may not make any sale, exchange
21 or other transfer of assets between any of its separate accounts or between
22 any other investment account and one or more of its separate accounts unless
23 both:

24 (a) If assets are transferred into a separate account, the transfer
25 is made solely to establish the account or to support the operation of the
26 policies with respect to the separate account to which the transfer is made.

27 (b) The transfer, whether into or from a separate account, is made by
28 a transfer of cash. The director may approve the transfer of other assets
29 in advance of the transfer.

30 2. The separate account shall have sufficient net investment income
31 and readily marketable assets to meet anticipated withdrawals under the
32 policies that are funded by the account.

33 D. Except for securities issued or guaranteed as to principal and
34 interest by the United States, a separate account shall not purchase or
35 otherwise acquire the securities of any issuer if immediately after the
36 purchase or acquisition the value of the investment, together with any prior
37 investments of the account in the security that is valued pursuant to this
38 article, exceeds ten per cent of the value of the assets of the separate
39 account. The director may waive this limitation in writing if the director
40 believes that the waiver will not render the operation of the separate
41 account hazardous to the public or to the policyholders in this state.

42 E. A separate account shall not purchase or otherwise acquire the
43 voting securities of any issuer if as a result of the purchase or acquisition
44 the insurer and its aggregated separate accounts will own more than ten per
45 cent of the issuer's total issued and outstanding voting securities. The

1 director may waive this limitation in writing if the director believes that
2 the waiver will not render the operation of the separate account hazardous
3 to the public or to the policyholders in this state or jeopardize the
4 independent operation of the issuer of the securities.

5 F. The ten per cent limitation under subsection D of this section does
6 not preclude the investment of separate account assets in shares of
7 investment companies that are registered pursuant to the investment company
8 act of 1940 (15 United States Code sections 80a-1 through 80a-64) or in other
9 pools of investment assets if the investments and investment policies of the
10 investment companies or asset pools comply substantially with subsection C
11 of this section and with any other applicable provisions under this article.

12 G. The insurer shall value investments of the separate account at
13 their market value on the date of valuation or at amortized cost if it
14 approximates market value.

15 H. A domestic insurer shall not change its investment policy of a
16 separate account without first filing the change with the director. A change
17 that is filed pursuant to this subsection is effective sixty days after the
18 date on which it was filed with the director, unless the director notifies
19 the insurer before the end of the sixty day period of the director's
20 disapproval of the proposed change. At any time, after notice and a public
21 hearing, the director may disapprove any change that has become effective.
22 The director may disapprove the change if the director determines that the
23 change would be detrimental to the interests of the policyholders who
24 participate in the separate accounts.

25 I. Before or contemporaneously with the delivery of the policy, the
26 insurer shall disclose to the insured in writing all charges that may be made
27 against the separate account, including the following:

28 1. Taxes or reserves for taxes that are attributable to investment
29 gains and income of the separate account.

30 2. Actual cost of reasonable brokerage fees and similar direct
31 acquisition and sale costs that are incurred in the purchase or sale of
32 separate account assets.

33 3. Actuarially determined tabular costs of insurance and the release
34 of separate account liabilities.

35 4. Charges for administrative expenses and investment management
36 expenses, including internal costs that are attributable to the investment
37 management of assets of the separate account.

38 5. A charge for mortality and expense guarantees at a rate specified
39 in the policy.

40 6. Any amounts in excess of the amounts that are required to be held
41 in the separate accounts.

42 7. Charges for incidental insurance benefits.

43 J. The board of directors of each insurer that seeks approval to enter
44 into the variable life insurance business in this state shall adopt written
45 standards of conduct relating to the purchase or sale of investments of

1 separate accounts. The standards of conduct are binding on the insurer and
2 its officers, directors, employees and affiliates. The adoption of a code
3 of ethics that meets the requirements of section 17j of the investment
4 company act of 1940 satisfies this section.

5 K. A law that applies to the officers and directors of insurance
6 companies with respect to conflicts of interest also applies to the members
7 of a committee or any other similar body of a separate account.

8 L. An insurer shall not enter into a contract under which a person for
9 a fee undertakes to regularly furnish investment advice to the insurer with
10 respect to its separate accounts that are maintained for variable life
11 insurance policies unless the contract is in writing, the contract states
12 that the insurer may terminate the contract without penalty to the insurer
13 or the separate account on sixty days' written notice to the investment
14 advisor and one of the following applies:

15 1. The person who provides the advice is registered as an investment
16 adviser under the investment advisers act of 1940 (15 United States Code
17 sections 80b-1 through 80b-21).

18 2. The person who provides the advice is an investment manager under
19 the employee retirement income security act of 1974 (29 United States Code
20 sections 1001 through 1461) with respect to the assets of each employee
21 benefit plan that are allocated to the separate account.

22 3. The insurer has filed with the director and continues to file
23 annually the following information and statements concerning the proposed
24 advisor:

25 (a) The name and form of the organization, the state of organization
26 and the proposed advisor's principal place of business.

27 (b) The names and addresses of the proposed advisor's partners,
28 officers and directors and of persons who perform similar functions if the
29 investment advisor is an individual.

30 (c) A written standard of conduct that complies in substance with
31 subsection J of this section.

32 (d) A statement that is submitted by the proposed advisor to the
33 insurer and that states with respect to each of the following that the
34 proposed advisor or a person associated with the proposed advisor has not:

35 (i) Within the last ten years been convicted of a felony or
36 misdemeanor offense arising out of such person's conduct as an employee,
37 salesman, officer or director of an insurance company, a banker, an insurance
38 agent PRODUCER, a securities broker or an investment advisor involving
39 embezzlement, fraudulent conversion, the misappropriation of funds or
40 securities or a violation of 18 United States Code section 1341, 1342 or
41 1343, and arising out of the person's conduct as an employee, salesperson,
42 officer or director of an insurance company or as a banker, insurance agent
43 PRODUCER, securities broker or investment advisor.

44 (ii) Been permanently or temporarily enjoined by a court order,
45 judgment or decree from acting as an investment advisor, underwriter, broker

1 or dealer, acting as an affiliated person or an employee of an investment
2 company, bank or insurance company or engaging in or continuing any conduct
3 or practice in connection with any enjoined activity.

4 (iii) Been found by a federal or state regulatory authority to have
5 wilfully violated or acknowledged a wilful violation of a federal or state
6 securities law or the insurance laws of this state.

7 (iv) Been censured, been denied an investment advisor registration,
8 had a registration as an investment advisor revoked or suspended or been
9 barred or suspended from associating with an investment advisor by a federal
10 or state regulatory authority.

11 M. After notice and an opportunity for a hearing, the director may
12 require that the investment advisory contract be terminated if the director
13 deems that continued operation under the contract would be hazardous to the
14 public or the insurer's policyholders.

15 Sec. 49. Section 20-2636, Arizona Revised Statutes, is amended to
16 read:

17 20-2636. Nonforfeiture benefits; exceptions; definition

18 A. This section does not apply to the following:

19 1. Reinsurance.

20 2. Group annuity contract purchases that are made in connection with
21 one or more retirement or deferred compensation plans that are established
22 or maintained by or for one or more employers, including partnerships or sole
23 proprietorships, employee organizations or any combination of partnerships,
24 proprietorships and employee organizations. This exception does not apply
25 to group annuity contract purchases that are made in connection with plans
26 that provide individual retirement accounts or individual retirement
27 annuities under section 408 of the internal revenue code.

28 3. A premium deposit fund.

29 4. An investment annuity.

30 5. An immediate annuity.

31 6. A deferred annuity contract after annuity payments begin.

32 7. A reversionary annuity.

33 8. A contract that is delivered outside this state through any agent
34 INSURANCE PRODUCER or other representative of the company issuing the
35 contract.

36 B. To the extent that a variable annuity contract provides benefits
37 that do not vary according to the investment performance of a separate
38 account before the annuity commencement date, the contract shall contain
39 provisions that satisfy the requirements of section 20-1232 and the contract
40 is not subject to this section.

41 C. Except pursuant to subsections A and B of this section, if a
42 contract is issued on or after January 1, 1998, a variable annuity contract
43 shall not be delivered or issued for delivery in this state unless it
44 contains in substance the following provisions or corresponding provisions

1 that the director determines are at least as favorable to the contract
2 holder:

3 1. That, on cessation of the payment of considerations under a
4 contract, the company will grant a paid-up annuity benefit on a plan that is
5 described in the contract and that complies with subsection G of this
6 section. The description shall include a statement of the mortality table,
7 if any, and the guaranteed or assumed interest rates that are used in
8 calculating annuity payments.

9 2. If a contract provides for a lump sum settlement at maturity or at
10 any other time, that, on the surrender of the contract at or before the
11 commencement of any annuity payments, the company will pay in lieu of any
12 paid-up annuity benefit a cash surrender benefit that is described in the
13 contract and that complies with subsection H of this section. The contract
14 may provide that the company reserves the right to defer the determination
15 and payment of any cash surrender benefit for any period during which the New
16 York stock exchange is closed for trading except for normal holidays or in
17 which the securities and exchange commission determines that a state of
18 emergency exists.

19 3. A statement that any paid-up annuity, cash surrender or death
20 benefits that may be available under the contract are not less than the
21 minimum benefits that are required by the laws of the state in which the
22 contract is delivered and an explanation of the manner in which the benefits
23 are altered by any of the following:

24 (a) The existence of any additional amounts the company credited to
25 the contract.

26 (b) Any indebtedness to the company on the contract.

27 (c) Any prior withdrawals from or partial surrenders of the contract.

28 D. The minimum values under this section of any paid-up annuity, cash
29 surrender or death benefits that are available under a variable annuity
30 contract shall be based on nonforfeiture amounts that meet the following
31 requirements:

32 1. The minimum nonforfeiture amount on any date before the annuity
33 commencement date shall be an amount that is equal to the percentages of net
34 considerations under subsection E of this section, and increased or decreased
35 by the net investment return that is allocated to the percentages of net
36 considerations. This amount shall be reduced to reflect the effect of:

37 (a) Any partial withdrawals from or partial surrenders of the
38 contract.

39 (b) The amount of any indebtedness on the contract, including interest
40 due and accrued.

41 (c) An annual contract charge that is not less than zero and that is
42 equal to the lesser of thirty dollars or two per cent of the end of year
43 contract value, less the amount of any annual contract charge that is
44 deducted from any gross considerations credited to the contract during the
45 contract year.

1 (d) A transaction charge of ten dollars for each transfer to another
2 separate account or to another investment division within the same separate
3 account.

4 2. The net investment return to be credited to a contract shall be
5 determined at least monthly.

6 3. The annual thirty dollar contract charge and the ten dollar
7 transaction charge under paragraph 1 of this subsection will be adjusted to
8 reflect changes in the consumer price index pursuant to subsection F of this
9 section.

10 For the purposes of this subsection, "net investment return" means the rate
11 of investment return that is in an amount that does not exceed the actual
12 expense not offset by other deductions and that is credited to the variable
13 annuity contract according to the terms of the contract after deductions for
14 tax charges, if any, for asset charges either at a rate that does not exceed
15 the rate stated in the contract, or if the contract is issued by a nonprofit
16 corporation under which the contract holder participates fully in the
17 investment, for mortality and expense experience of the account.

18 E. The percentages of net considerations that are used to define the
19 minimum nonforfeiture amount under subsection D of this section shall meet
20 one of the following requirements:

21 1. For contracts that provide for periodic considerations, the net
22 considerations for a given contract year that are used to define the minimum
23 nonforfeiture amount shall be an amount not less than zero and shall be equal
24 to the corresponding gross considerations that are credited to the contract
25 during that contract year less an annual contract charge of thirty dollars,
26 less a collection charge of one dollar and twenty-five cents for each
27 periodic consideration credited to the contract during that contract year,
28 and less any charges for premium taxes. The percentages used to calculate
29 the minimum nonforfeiture amount shall be as follows:

30 (a) For the first contract year, sixty-five per cent of the net
31 considerations.

32 (b) For each renewal contract year, eighty-seven and one-half per cent
33 of the net considerations, except that for any portion of the total net
34 consideration for a renewal contract year that exceeds by not more than two
35 times the sum of those portions of the net considerations in all prior
36 contract years for which the percentage was sixty-five per cent, the
37 percentage to be applied to this amount shall be sixty-five per cent.

38 2. For contracts that provide for a single consideration, the net
39 consideration that is used to define the minimum nonforfeiture amount shall
40 be the gross consideration less a seventy-five dollar contract charge and
41 less any charges for premium taxes. The percentage of the net consideration
42 shall be ninety per cent. The annual thirty dollar contract charge, the
43 collection charge of one dollar twenty-five cents per collection and the
44 seventy-five dollar single consideration contract charge will be adjusted to

1 reflect changes in the consumer price index pursuant to subsection F of this
2 section.

3 F. A demonstration that a contract's nonforfeiture amounts comply with
4 this section shall be based on the following assumptions, unless the company
5 demonstrates the suitability of alternative assumptions:

6 1. The testing of values shall occur at the end of each of the first
7 twenty contract years.

8 2. A net investment return of seven per cent per year.

9 3. If the contract provides for transfers to another separate account
10 or to another investment division within the same separate account, one
11 transfer per contract year.

12 4. In determining the state premium tax that applies to the contract,
13 the state of residence is the state of delivery.

14 5. With respect to contracts that provide for periodic considerations,
15 monthly considerations of one hundred dollars for each of the first two
16 hundred forty months.

17 6. With respect to contracts that provide for a single consideration,
18 a ten thousand dollar single consideration.

19 7. The following contract charges:

20 (a) For contracts that are filed in 1980 or earlier, the annual thirty
21 dollar contract charge, the charge of ten dollars per transfer, the
22 collection charge of one dollar twenty-five cents per consideration and the
23 seventy-five dollar contract charge.

24 (b) For contracts that are filed in 1981 or after, the contract
25 charges listed in subdivision (a) of this paragraph multiplied by the ratio
26 of the consumer price index for June of the calendar year preceding the date
27 of filing to the consumer price index for June, 1979.

28 8. If the contract provides for the allocation of considerations to
29 both fixed and variable accounts, allocate one hundred per cent of the
30 considerations to the variable account.

31 G. A paid-up annuity benefit that is available under a variable
32 annuity contract shall be in an amount so that its present value on the
33 annuity commencement date is at least equal to the minimum nonforfeiture
34 amount on the annuity commencement date. The insurer shall compute the
35 present value by using the mortality table, if any, and the guaranteed or
36 assumed interest rates that are used in calculating the annuity payments.

37 H. For variable annuity contracts that provide cash surrender
38 benefits, at any time before the annuity commencement date the cash surrender
39 benefit shall not be less than the minimum nonforfeiture amount next computed
40 after the company receives the request for surrender. The death benefit
41 under the contracts shall be at least equal to the cash surrender benefit.

42 I. A variable annuity contract that does not provide cash surrender
43 benefits or that does not provide death benefits that are at least equal to
44 the minimum nonforfeiture amount before the annuity commencement date shall
45 prominently state in the contract that these benefits are not provided.

1 J. Notwithstanding the requirements of this section, a variable
2 annuity contract may provide that the company may cancel the annuity and pay
3 the contract holder its accumulated value and that on the payment of its
4 accumulated value the company is released from any further obligation under
5 the contract if either:

6 1. At the time the annuity becomes payable the accumulated value is
7 less than two thousand dollars, or would provide an income the initial amount
8 of which is less than twenty dollars per month.

9 2. Before the annuity becomes payable under a periodic payment
10 variable annuity contract, considerations have not been received under the
11 contract for the two full years preceding the cancellation and both:

12 (a) The considerations were paid before the annuity became payable and
13 were reduced to reflect any partial withdrawals from or partial surrenders
14 of the contract.

15 (b) The accumulated value amounted to less than two thousand dollars.

16 K. For a variable annuity contract that provides within the same
17 contract by rider or supplemental contract provision both annuity benefits
18 and life insurance benefits that are in excess of the greater of the cash
19 surrender benefits or a return of the gross considerations with interest, the
20 minimum nonforfeiture benefits shall be equal to the sum of the minimum
21 nonforfeiture benefits for the annuity portion and the minimum nonforfeiture
22 benefits, if any, for the life insurance portion computed as if each portion
23 were a separate contract. Notwithstanding subsection D of this section, in
24 ascertaining the minimum nonforfeiture amounts and paid-up annuity, cash
25 surrender and death benefits that may be required by this section, the
26 insurer shall disregard any additional benefits that are payable in the event
27 of a total and permanent disability, as reversionary annuity or deferred
28 reversionary annuity benefits or as other policy benefits in addition to life
29 insurance, endowment and annuity benefits, and the considerations for all of
30 the additional benefits. The inclusion of the additional benefits is not
31 required in any paid-up benefits, unless the additional benefits separately
32 would require minimum nonforfeiture amounts and paid-up annuity, cash
33 surrender and death benefits.

34 L. For the purposes of this section, "consumer price index" means the
35 index for all urban consumers for all items that is published by the bureau
36 of labor statistics of the United States department of labor or its
37 successor.

38 Sec. 50. Section 20-2662, Arizona Revised Statutes, is amended to
39 read:

40 20-2662. Insurance producer qualifications; reports

41 A. A person may not sell or offer for sale in this state any variable
42 contracts unless the person is licensed as a life insurance agent PRODUCER
43 by the department and files with the director evidence that the person is
44 licensed by the national association of securities dealers as a principal or
45 a registered representative and that the person is authorized to solicit or

1 sell variable contracts by an insurer admitted to transact variable contract
2 business in this state.

3 B. Any examination that is administered by the department to determine
4 if a person is eligible for licensing as an agent INSURANCE PRODUCER may
5 include any questions that the director deems appropriate and that concern
6 the history, purpose, regulation and sale of variable contracts.

7 C. Any person who is qualified to sell or offer to sell variable
8 contracts under this article shall immediately report to the director:

9 1. The suspension or revocation of the agent's INSURANCE PRODUCER'S
10 license in any other state or territory of the United States.

11 2. The imposition of any disciplinary sanction, including the
12 suspension or expulsion of the agent INSURANCE PRODUCER from membership, or
13 suspension, revocation or denial of the agent's INSURANCE PRODUCER'S
14 registration by any national securities exchange, national securities
15 association or federal, state or territorial agency that has jurisdiction
16 over securities or variable contracts.

17 3. The entry of a judgment or injunction against the agent INSURANCE
18 PRODUCER for conduct involving fraud, deceit or misrepresentation or a
19 violation of any insurance or securities law.

20 D. The director may reject an application or suspend, revoke or refuse
21 to renew an agent's INSURANCE PRODUCER'S qualification to sell or offer to
22 sell variable contracts on any ground that would bar the applicant or agent
23 INSURANCE PRODUCER from being licensed to sell other life insurance contracts
24 in this state. The rules that apply to a proceeding relating to the
25 suspension or revocation of an agent's INSURANCE PRODUCER'S license also
26 apply to a proceeding for the suspension or revocation of an agent's A
27 PRODUCER'S qualification to sell or offer to sell variable contracts.

28 Sec. 51. Section 23-617, Arizona Revised Statutes, is amended to read:

29 23-617. Exempt employment; definition

30 "Exempt employment" means employment not considered in determining
31 whether an employing unit constitutes an "employer" under this chapter and
32 includes:

33 1. Agricultural labor as defined in section 23-603 unless such labor
34 is performed for an employing unit which after December 31, 1977 either:

35 (a) For some portion of a day, but not necessarily simultaneously, in
36 each of twenty different calendar weeks, whether or not the weeks are or were
37 consecutive, in either the current or the preceding calendar year, employed
38 in agricultural labor at least ten individuals irrespective of whether the
39 same individuals were employed in each such day.

40 (b) In any calendar quarter in either the current or preceding
41 calendar year paid cash wages of twenty thousand dollars or more for
42 agricultural labor.

43 2. Domestic service in a private home, local college club, or local
44 chapter of a college fraternity or sorority unless performed after December
45 31, 1977, for an employing unit which in any calendar quarter in either the

1 current or preceding calendar year paid cash wages of one thousand dollars
2 or more to individuals employed in such service.

3 3. Service performed on or in connection with a vessel or aircraft
4 that is not an American vessel or American aircraft, if the employee is
5 employed on and in connection with such vessel or aircraft when outside the
6 United States.

7 4. Service performed by an individual in the employ of his THE
8 INDIVIDUAL'S son, daughter, or spouse, and service performed by an individual
9 under the age of twenty-one years in the employ of his THE INDIVIDUAL'S
10 father or mother.

11 5. Service performed in the employ of the United States government or
12 an instrumentality of the United States which is wholly or partially owned
13 by the United States or which is exempt from the tax imposed by section 3301
14 of the federal internal revenue code, except that to the extent Congress
15 shall permit states to require instrumentalities of the United States to make
16 payments into an unemployment fund under a state unemployment compensation
17 law, all of the provisions of this chapter shall be applicable to such
18 instrumentalities, in the same manner, to the same extent and on the same
19 terms as to all other employers, employing units, individuals and services,
20 but if this state is not certified for any year by the secretary of labor of
21 the United States under section 3304 of the federal internal revenue code,
22 the payments required of such instrumentalities with respect to the year
23 shall be refunded by the department from the fund in the same manner and
24 within the same period as is provided in section 23-742 with respect to
25 contributions erroneously collected.

26 6. Service performed in the employ of another state, or any political
27 subdivision thereof, or an instrumentality of one or more thereof which is
28 wholly owned by one or more other states or political subdivisions and which
29 exercises only governmental as distinguished from proprietary functions, and
30 service performed in the employ of any political subdivisions of this or any
31 other state to the extent the instrumentality, with respect to such service,
32 is exempt under the Constitution of the United States from the tax imposed
33 by section 3301 of the federal internal revenue code, except that part of
34 such service performed in the employ of any of the foregoing which is
35 "employment" under section 23-615, paragraph 6. But any state, or a
36 political subdivision thereof, or instrumentality of any one or more of the
37 foregoing which is wholly owned by one or more states or political
38 subdivisions may elect coverage whether or not the service performed is
39 governmental or proprietary for any such state or political subdivision
40 thereof or any instrumentality thereof or any department thereof in the
41 manner prescribed and subject to the terms of section 23-725, and such
42 election may exclude any services described in section 23-615, paragraph 6,
43 subdivision (d). This state or any instrumentality or political subdivision
44 of this state may appropriate funds to pay contributions or payments in lieu
45 of contributions as required by this chapter.

1 7. Service with respect to which unemployment compensation is payable
2 under an unemployment compensation system established by an act of Congress.

3 8. Service performed in any calendar quarter in the employ of an
4 organization exempt from income tax under section 501(a) (other than an
5 organization described in section 401(a)) or under section 521 of the federal
6 internal revenue code, if the remuneration for such service is less than
7 fifty dollars.

8 9. Service performed in the employ of a school, college or university,
9 if the service is performed either:

10 (a) By a student enrolled and regularly attending classes at the
11 school, college or university.

12 (b) By the spouse of such a student if the spouse is advised at the
13 time the spouse commences to perform such service that the employment is
14 provided under a program to provide financial assistance to the student by
15 the school, college or university and the employment will not be covered by
16 any program of unemployment compensation.

17 10. Service performed in the employ of a corporation, community chest
18 fund, or foundation, organized and operated exclusively for religious,
19 charitable, scientific, testing for public safety, literary, or educational
20 purposes, or for the prevention of cruelty to children or animals, no part
21 of the net earnings of which inures to the benefit of a private shareholder
22 or individual, no substantial part of the activities of which is carrying on
23 propaganda or otherwise attempting to influence legislation, and which does
24 not participate in or intervene in (including the publishing or distributing
25 of statements) any political campaign on behalf of any candidate for public
26 office; provided that services performed in the employ of an organization
27 operated for the primary purpose of carrying on a trade or business for
28 profit shall not be exempt on the ground that all of its profits are payable
29 to one or more organizations exempt under this paragraph, and further
30 provided that services exempt under this paragraph shall not include services
31 performed for an employing unit with respect to which the employing unit is
32 liable for any federal tax against which credit may be taken for
33 contributions required to be paid into a state unemployment compensation
34 fund, and further provided that services exempt under this paragraph shall
35 not include services which are "employment" under section 23-615,
36 paragraph 6.

37 11. Services performed as a student nurse in the employ of a hospital
38 or a nurses' training school by an individual enrolled and regularly
39 attending classes in a nurses' training school chartered or approved pursuant
40 to state law, and service performed as an interne in the employ of a hospital
41 by an individual who has completed a four years' course in a medical school
42 chartered or approved pursuant to state law.

1 12. Service performed by an individual for an employing unit as an
2 insurance agent PRODUCER, if all such service performed by the individual for
3 such employing unit is performed for remuneration solely by way of
4 commission.

5 13. Service performed by an individual under the age of eighteen in the
6 delivery or distribution of newspapers or shopping news, not including
7 delivery or distribution to any point for subsequent delivery or
8 distribution, and service performed by an individual in, and at the time of,
9 the sale of newspapers or magazines to ultimate consumers under an
10 arrangement by which the newspapers or magazines are to be sold by him THE
11 INDIVIDUAL at a fixed price, his THE INDIVIDUAL'S compensation being based
12 on the retention of the excess of such price over the amount at which the
13 newspapers or magazines are charged to him THE INDIVIDUAL, whether or not he
14 THE INDIVIDUAL is guaranteed a minimum amount of compensation for such
15 service, or is entitled to be credited with the unsold newspapers or
16 magazines turned back.

17 14. Service performed by an individual for an employing unit as a
18 licensed real estate broker or a licensed cemetery broker or a licensed real
19 estate salesman or licensed cemetery salesman, if all such service performed
20 by the individual for such employing unit is performed for remuneration
21 solely by way of commission, except that any service performed as a real
22 estate broker, a cemetery broker, a real estate salesman or a cemetery
23 salesman for an employing unit to which the provisions of section 23-750
24 apply is not exempt employment.

25 15. Service performed in the employ of a foreign government including
26 service as a consular or other officer or employee or a nondiplomatic
27 representative.

28 16. Service performed in the employ of an instrumentality wholly owned
29 by a foreign government if both:

30 (a) The service is of a character similar to that performed in foreign
31 countries by employees of the United States government or of an
32 instrumentality thereof.

33 (b) The department finds that the United States secretary of state has
34 certified to the United States secretary of the treasury that the foreign
35 government with respect to whose instrumentality exemption is claimed grants
36 an equivalent exemption with respect to similar service performed in the
37 foreign country by employees of the United States government and of
38 instrumentalities thereof.

39 17. Service covered by an arrangement between the department and the
40 agency charged with the administration of any other state or federal
41 unemployment compensation law pursuant to which all services performed by an
42 individual for an employing unit during the period covered by the employing
43 unit's duly approved election are deemed to be performed entirely within such
44 agency's state.

45 18. Casual labor not in the course of the employer's trade or business.

19. Service performed by an individual for an employing unit as a securities salesman, if all such service performed by the individual for such employing unit is performed for remuneration solely by way of commission, except that any service performed as a securities salesman for an employing unit to which the provisions of section 23-750 apply is not exempt employment.

20. During any period in which it does not meet the definition of employment in section 23-615, paragraph 8, service performed by an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employer, except that this paragraph shall not apply to service performed in a program established for or on behalf of an employer or group of employers.

21. Service performed in the employ of a hospital if such service is performed by a patient of the hospital.

22. Service performed by individuals solely to the extent that the compensation includes commissions, overrides or profits realized on sales primarily resulting from the in-person solicitation of orders for or making sales of consumer goods in the home, except that any such service performed by an individual for an employing unit to which the provisions of section 23-750 apply is not exempt employment.

23. Services performed by an individual for an employing unit in the preparation of tax returns and related schedules and documents, if all such services are performed for remuneration solely by way of commissions, independent of the control of the employing unit, other than that required by the internal revenue service for correct preparation of such returns, except that any such service performed by an individual for an employing unit to which the provisions of section 23-750 apply is not exempt employment.

Sec. 52. Section 28-450, Arizona Revised Statutes, is amended to read:

28-450. Release of information prohibited; classification;
definition

A. Notwithstanding section 28-447, the department shall not:

1. Divulge information from a vehicle title or registration record unless the person who requests the information provides to the department all of the following:

(a) The name of the owner.

(b) The vehicle identification number of the vehicle.

(c) The vehicle license plate number assigned to the vehicle.

2. Release a copy of a record or divulge information concerning a person's driving record unless the person requesting the driving record provides to the department all of the following:

1 (a) The name of the licensee or the name of the person whose record
2 is requested.

3 (b) The driver license number of the licensee, a statement that the
4 person whose record is requested has not applied for a license or a statement
5 that the license has been suspended or revoked.

6 (c) The date of birth of the licensee or the expiration date of the
7 driver license of the licensee.

8 B. Subsection A of this section does not apply to:

9 1. A state or its departments, agencies or political subdivisions.

10 ~~2. Any agent of the department of environmental quality who has a~~
11 ~~valid contract to conduct the random on-road testing program prescribed by~~
12 ~~section 49-542.01.~~

13 ~~3. 2. A court.~~

14 ~~4. 3. A law enforcement officer, including a law enforcement officer~~
15 ~~in a foreign country.~~

16 ~~5. 4. A licensed private investigator.~~

17 ~~6. 5. A financial institution or enterprise under the jurisdiction~~
18 ~~of the state banking department or a federal monetary authority.~~

19 ~~7. 6. The federal government or its agencies.~~

20 ~~8. 7. An attorney who is admitted to practice in this state and who~~
21 ~~alleges that the information is relevant to a pending or potential court~~
22 ~~proceeding.~~

23 ~~9. 8. A motor vehicle dealer who is licensed and bonded by the~~
24 ~~department or a state organization of licensed and bonded motor vehicle~~
25 ~~dealers.~~

26 ~~10. 9. The release of any of the following information to a person who~~
27 ~~is involved in an accident or to the owner of a vehicle involved in an~~
28 ~~accident if the person who requests the information submits proof to the~~
29 ~~department of involvement in the accident:~~

30 (a) The driving record of a person who operates a motor vehicle
31 involved in the accident.

32 (b) The vehicle title or registration record of a vehicle involved in
33 the accident.

34 ~~11. 10. The release of the driving record or title and registration~~
35 ~~record if that record is for the requester's vehicle or is the requester's~~
36 ~~own driving record, except that the director may require any information from~~
37 ~~the requester that is deemed necessary to ensure that the requester is~~
38 ~~entitled to receive the record.~~

39 ~~12. 11. An insurer that writes automobile liability or motor vehicle~~
40 ~~liability policies and that is under the jurisdiction of the department of~~
41 ~~insurance, except that an insurer or its authorized agent requesting~~
42 ~~information pursuant to subsection A of this section shall provide two of the~~
43 ~~three requirements under subsection A, paragraph 1 or 2 of this section~~
44 ~~before the department divulges or releases the information.~~

1 ~~13-~~ 12. The release of a title and registration record if all of the
2 following conditions exist:

3 (a) The requester verifies to the satisfaction of the director that
4 the vehicle on which the requester is requesting the record is in the
5 requester's possession.

6 (b) The record is requested in order for the requester to notify the
7 registered owner of the requester's intent to apply to the department for a
8 bonded title.

9 (c) The requester provides a verification of a vehicle inspection that
10 was performed by an authorized department employee or agent.

11 C. An authorized agent shall promptly deliver information received
12 from the department pursuant to subsection A of this section and subsection
13 B, paragraph 12 of this section to the insurer that originally requested the
14 information. An authorized agent shall not copy, retain or transfer by any
15 means any of the information for the authorized agent's own use or for use
16 by persons other than the insurer that originally requested the information.

17 D. The department shall not release to an insurer, broker, managing
18 general agent, authorized agent or insurance agent PRODUCER any information
19 in a person's driving record pertaining to a traffic violation that occurred
20 forty months or more before the date of the request for the release of the
21 information.

22 E. An authorized agent who commits any of the following acts with
23 regard to information received pursuant to subsection A of this section and
24 subsection B, paragraph 12 of this section is guilty of a class 1
25 misdemeanor:

26 1. Uses a false representation to obtain information from a department
27 record.

28 2. Sells or otherwise distributes the information obtained from the
29 department to a person or organization for purposes that are not disclosed
30 in the request.

31 3. Violates subsection C of this section.

32 F. For the purposes of this section, "authorized agent" means a third
33 party retained by an insurer for the purpose of requesting department
34 information pursuant to subsection A of this section and subsection B,
35 paragraph 12 of this section but does not include an insurance producer as
36 defined in section 20-281 or a managing general agent as defined in section
37 20-311.

38 Sec. 53. Section 32-1391.02, Arizona Revised Statutes, is amended to
39 read:

40 32-1391.02. Prearranged funeral agreements; restrictions on
41 sales

42 A. A person shall not enter into a prearranged funeral agreement other
43 than in accordance with the provisions of this article and the rules adopted
44 pursuant to this article.

1 B. The board shall adopt rules that require every funeral
2 establishment that sells prearranged funeral agreements to give a
3 standardized written or printed price list for retention to each person who
4 personally inquires about prearranged funeral agreements. On beginning a
5 discussion regarding prearranged funeral agreements, a registered prearranged
6 funeral salesperson or a licensed insurance agent PRODUCER who a funeral
7 establishment employs or contracts with to sell prearranged funeral
8 agreements funded by insurance shall present the price list to the consumer.
9 The list shall be presented in an accurate and readable manner in order to
10 facilitate price comparisons by consumers.

11 C. A prearranged funeral agreement shall be funded by insurance or
12 trust. A funeral establishment or an agent or employee of a funeral
13 establishment shall not accept payment for or agree to enter into any
14 prearranged funeral agreement unless the name of a licensed funeral
15 establishment appears on the statement of goods and services used in
16 connection with the agreement and one of the following is true:

17 1. If the agreement is a prearranged funeral agreement funded by
18 insurance, the funeral establishment employs or contracts with insurance
19 agents PRODUCERS who are licensed pursuant to title 20 to sell the funeral
20 agreement.

21 2. If the agreement is a prearranged funeral agreement funded by
22 trust, the establishment has been issued a prearranged funeral sales
23 endorsement to its license and the salesperson has been issued a prearranged
24 funeral salesperson registration by the board allowing the establishment and
25 the person to sell prearranged funeral agreements funded by trust.

26 3. If the agreement is a payable on death account, the account is not
27 under the control of the establishment. A funeral establishment or an agent
28 or employee of a funeral establishment shall not accept a deposit for a
29 payable on death account.

30 Sec. 54. Section 32-3602, Arizona Revised Statutes, is amended to
31 read:

32 32-3602. Applicability of chapter

33 This chapter does not apply to:

34 1. A real estate broker or salesperson who is licensed in this state
35 and who, when acting as such, gives an opinion as to the price of real estate
36 for the purpose of prospective listing or sale if this opinion is not
37 referred to as an appraisal.

38 2. A natural person, a corporation through its officers or a
39 partnership through its partners that deals in his THAT PERSON'S or its own
40 property and does not receive special compensation for the transaction.

41 3. An ~~attorney-at-law~~ ATTORNEY in the performance of his THAT PERSON'S
42 duties as an ~~attorney-at-law~~ ATTORNEY.

43 4. A mortgage banker, mortgage broker or commercial mortgage banker
44 who is licensed in this state and who, when acting as such, prepares a report

1 analyzing real property if the report is not made for the primary purpose of
2 establishing the sale or market value of the property.

3 5. An individual who is otherwise subject to licensing or
4 certification by law and whose duties require appraisal of real property for
5 purposes of tax assessment.

6 6. A professional engineer or architect registered in this state or
7 a contractor or insurance agent PRODUCER licensed in this state who, when
8 acting as such, prepares a report analyzing real property if the report
9 utilizes the specialized knowledge of the registered professional engineer
10 or architect or the licensed contractor or insurance agent PRODUCER.

11 7. A property tax agent who is registered in this state and who, when
12 acting as such, prepares a report analyzing real estate if the report is made
13 for purposes of tax assessment or tax valuation of the real estate.

14 8. An individual appraising real property only for the purpose of
15 providing an opinion in a judicial proceeding or an individual providing an
16 opinion in a judicial proceeding. An individual providing an opinion under
17 the exemption of this paragraph shall not represent or imply in any report
18 or testimony that the individual testifying is licensed or certified under
19 this chapter.

20 Sec. 55. Section 33-803, Arizona Revised Statutes, is amended to read:

21 33-803. Trustee of trust deed; qualifications

22 A. Except as provided in subsection B, the trustee of a trust deed
23 shall be:

24 1. An association or corporation doing business under the laws of this
25 state as a bank, trust company, savings and loan association, credit union,
26 insurance company, escrow agent or consumer lender.

27 2. A person who is a member of the state bar of Arizona.

28 3. A person who is a licensed real estate broker under the laws of
29 this state.

30 4. A person who is a licensed insurance agent PRODUCER under the laws
31 of this state.

32 5. An association or corporation which is licensed, chartered or
33 regulated by the federal deposit insurance corporation, the comptroller of
34 the currency, the federal home loan bank, the national credit union
35 administration, the farm credit administration or any successors.

36 6. The parent corporation of any association or corporation referred
37 to in this subsection or any corporation all the stock of which is owned by
38 or held solely for the benefit of any such association or corporation
39 referred to in this subsection.

40 B. An individual trustee of a trust deed who qualifies under the
41 provisions of subsection A shall not be the beneficiary of the trust, but
42 such restriction shall not preclude a corporate or association trustee which
43 qualifies under the provisions of subsection A and while acting in good faith
44 from being the beneficiary, or after appointment from acquiring the interest
45 of the beneficiary by succession, conveyance, grant, descent or devise.

1 Sec. 56. Section 44-1220.01, Arizona Revised Statutes, is amended to
2 read:

3 44-1220.01. Fraudulent fire insurance application or claim;
4 classification

5 A person who knowingly provides false or fraudulent material
6 information to or withholds material information from an insurance agent or
7 broker PRODUCER on an application for fire insurance or who presents a false
8 or fraudulent claim or proof in support of such claim, upon a contract of
9 insurance for payment of any loss, or who knowingly prepares, makes or
10 subscribes to a false account, certificate of survey, affidavit or proof of
11 loss, or other false book, paper or writing, with intent to present or use
12 it or allow it to be presented or used in support of such claim is guilty of
13 a class 5 felony.

14 Sec. 57. Section 44-3152, Arizona Revised Statutes, is amended to
15 read:

16 44-3152. Exemption of certain investment advisers and
17 investment adviser representatives

18 A. An investment adviser is not required to be licensed or make a
19 notice filing under this chapter if that investment adviser does not have a
20 place of business in this state and either:

21 1. Its only clients in this state are investment companies, other
22 investment advisers, dealers, depository institutions, insurance companies,
23 employee benefit plans with assets of not less than one million dollars and
24 governmental agencies or instrumentalities, whether acting for themselves or
25 as trustees with investment control.

26 2. During the preceding twelve months it had fewer than six clients
27 who are residents of this state other than those clients specified in
28 paragraph 1.

29 B. If the commission determines that it is not necessary for any
30 investment adviser or class of investment advisers or investment adviser
31 representative or class of investment adviser representatives to be licensed
32 to protect the public interest because of the special characteristics of the
33 securities or transactions in which the investment adviser or investment
34 adviser representative may be involved, the commission may by rule or order
35 provide limited licensure requirements or exempt these persons from licensure
36 under this article.

37 C. This chapter does not apply to any dealer or salesman that is
38 registered with the commission pursuant to chapter 12, article 9 of this
39 title.

40 D. The authorized use of the designation "chartered financial
41 consultant" by an insurance agent PRODUCER licensed by the department of
42 insurance does not in and of itself constitute holding oneself out to the
43 public as an investment adviser or require a license under this article.

~~APPROVED BY THE GOVERNOR APRIL 24, 2002.~~

~~FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 25, 2002.~~

Passed the House April 15, 20 02,

Passed the Senate March 14, 20 02,

by the following vote: 50 Ayes,

by the following vote: 27 Ayes,

6 Nays, 4 Not Voting

0 Nays, 3 Not Voting

[Signature]
Speaker of the House

[Signature]
President of the Senate

[Signature]
Chief Clerk of the House

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

 day of , 20 ,

at o'clock M.

Secretary to the Governor

Approved this day of

 , 20 ,

at o'clock M.

Governor of Arizona

S.B. 1196

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this day of , 20 ,

at o'clock M.

Secretary of State

SENATE CONCURS IN HOUSE AMENDMENTS
AND FINAL PASSAGE

Passed the Senate April 22, 2002

by the following vote: 26 Ayes,

0 Nays, 4 Not Voting

Karlene Shaw
President of the Senate

Charmian Billington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

22 day of April, 2002

at 3:15 o'clock P M.

Jandra Ramirez
Secretary to the Governor

Approved this 24 day of

April, 2002,

at 12:17 o'clock P M.

James Lee Hull
Governor of Arizona

S.B. 1196

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 25 day of April, 2002

at 9:43 o'clock A M.

Petey Boyles
Secretary of State